



Appeal Decision

Site Visit made on 18 November 2020

by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th January 2021

Appeal Ref: APP/A2280/W/20/3257546

Land to the rear of 15, Coulman Street, Gillingham, Kent ME7 4HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by MR S Sharma against the decision of Medway Council.
 - The application Ref MC/20/0269, dated 31 January 2020, was refused by notice dated 9 April 2020.
 - The development proposed is a change of use from storage (class B8) to residential use with the erection of a two bedroom detached bungalow with parking space.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from storage (class B8) to residential use with the erection of a two bedroom detached bungalow with parking space on land to the rear of 15 Coulman Street, Gillingham, Kent ME7 4HT, in accordance with the application Ref: MC/20/0269, dated 31 January 2020, subject to the conditions set out in the attached schedule.

Main Issues

2. The main issues are the effect of the proposal on:
 - a) the character and appearance of the area;
 - b) the living conditions of the occupants of No 15A/B in relation to overbearing appearance;
 - c) the adequacy of the living conditions for future occupiers with regard to outlook and privacy.

Reasons

Character and appearance

3. The appeal site is an irregularly shaped area of land currently in use as a builder's storage yard. It occupies the area between a short terrace of houses in Coulman Street and garages and terraced houses in Albany Road. Vehicular access to the site is via a short track between houses and an industrial unit on Coulman Street. Although there is some commercial activity in the area, it is predominantly characterised by 2-storey terraced dwellings typical of the Victorian/Edwardian period giving a densely developed urban grain. The site is therefore somewhat anomalous in terms of its shape, use and access arrangements.

4. The proposal would provide a small 2-bedroom bungalow with a single parking space and a private amenity space to the rear. Although a bungalow would be at odds with the surrounding 2 storey dwellings, it would be behind existing development and would not be visible from the street. In this context it would not dominate or look out of place adjacent to the access track on the approach to the footpath that passes between the rear gardens of the terraces fronting Albany and Barnshole Roads. Whilst its proximity to the site boundaries and orientation would not replicate the existing pattern of development, it would make good use of the restricted space available and there would be a small area in front of the dwelling that could be used for planting.
5. The existing metal slatted gates which enclose the site would be replaced by a domestic elevation, in front of which would be some limited landscaping. This would represent an improvement to the appearance of the area and give a less intimidating feel to anyone using the footpath. A domestic use of the site would be more in keeping with the adjacent residential streets than its existing use for storage. Consequently, although it would contrast with the surrounding street scene, it would make good use of a constrained, backland site whilst not appearing cramped within this densely developed urban area.
6. I therefore conclude that it would not be harmful to the character and appearance of the area and would comply with saved Policies BNE1, H9 and H4 of the Medway Local Plan 2003 (Local Plan) which require new development to respect its context.

Living conditions of neighbours

7. The proposal would be close to Nos 15A/B Coulman Street, a property that was divided into flats in 1994. These flats have a restricted amount of private amenity space which already experiences a significant sense of enclosure. The hipped roof of the bungalow would be seen above the boundary fence that encloses the site's northern boundary. However, the front element of the bungalow would be set in further from this shared boundary. I am therefore satisfied that the proposal would not appear unacceptably overbearing or dominant from these flats. The Council was satisfied that there would be no unacceptable loss of sunlight or daylight arising from the proposal. There is nothing before me to suggest that I should reach a different conclusion.
8. The proposal would therefore not be unduly harmful to the living conditions of the occupants of Nos 15A/B and would comply with saved Policy BNE2 of the Local Plan which seeks to protect the amenity of adjacent occupiers.

Living conditions of future occupants

9. The outlook from the bedrooms would be across the access track and the parking areas and towards the rear gardens of the houses in Barnshole Road. There would be a modest sense of enclosure, but this would not appear to be untypical of the outlook from other dwellings in this tightly developed area.
10. The private amenity space of the bungalow would be overlooked from the upper floors on 2 Albany Road and 13 Coulman Street. However, views from No 2 would be at an oblique angle and those from No 13 would not be over the patio immediately adjacent to the living room and which may be the preferred area in which to sit outside. In any event some overlooking of gardens is inevitable given the pattern of development in the locality. It would therefore

be for potential future occupants to decide whether or not the arrangement would provide them with a level of privacy that they would find acceptable.

11. The proposal would meet the requirements of the Nationally Described Space Standard in addition to an adequate quantity of usable external space. Although the bedrooms would face the footpath and be close to the access track, it is not a main thoroughfare. As a result, there is no reason to believe that future occupants would experience undue noise and disturbance from passing pedestrians or neighbours using the nearby parking areas.
12. I therefore conclude that the scheme would provide satisfactory living conditions for future occupants in compliance with saved Policy BNE2 of the Local Plan.

Other Matters

13. There was no evidence that the current commercial use has caused noise and disturbance for neighbours. Nevertheless, a residential use is likely to have fewer comings and goings, so there is nothing to suggest that a change of use would be unacceptable.
14. Disruption during construction, whilst regrettable, is not a reason for rejecting a scheme that would be acceptable once complete. It is also a matter that could be mitigated through the imposition of an appropriate condition.

Conditions

15. The Council suggested a list of conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in paragraph 55 of the National Planning Policy Framework (the Framework) and imposed them where necessary, amending them for the sake of clarity and precision. I have consulted and secured the appellant's agreement to conditions which require matters to be agreed and action taken prior to the commencement of the development.
16. In addition to the statutory time limit, a condition specifying the plans is required to provide certainty. A materials condition is needed to protect the character and appearance of the area. Given the constrained nature of the site and its proximity to adjacent properties a construction management plan is justified to protect the living conditions of nearby occupiers before any works begin on the site.
17. The Council sought a series of complex conditions to address potential contamination of the site. I agree that this matter needs to be addressed given the site's current commercial use. However, I have imposed a simpler condition that better reflects the size and scale of the site and the proposal. The assessment of any risks posed by contamination must be undertaken before any works begin.
18. A condition to secure the provision of the vehicle parking space is necessary to prevent additional demand for on-street parking. An electric vehicle charging point is required to make an appropriate contribution to addressing climate change. Securing agreement to boundary treatments and adequate soft landscaping and implementing these prior to occupation of the new dwelling is necessary in the interests of the appearance of the development and the surrounding area.

19. Paragraph 53 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is a clear justification to do so. However, as the appeal site is constrained and close to other dwellings, I consider that the removal of permitted development rights in relation to extensions, roof alterations and erection of incidental buildings is justified to protect the area's appearance and the living conditions of neighbours. Similarly, in order to safeguard the area and neighbours it is appropriate to remove permitted development rights for a change of use of the proposal from a single dwelling (C3) to a house in multiple occupation (C4). I have imposed conditions accordingly.
20. There was no justification provided for requiring an acoustic assessment, so I consider such a condition unnecessary.

Conclusion

21. I have found that the proposal would comply with the development plan considered as a whole. There are no other considerations that suggest a decision should be taken other than in accordance with the development plan and therefore the appeal is allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 20/03/P.01 (existing site plan), 20/03/P.02 (proposed site plan), 20/03/P.03 (elevations) and site location plan.
- 3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 10 days of the report being completed and approved in writing by the local planning authority.

- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
- a) loading, unloading and storage of plant and materials;
 - b) measures to control noise, dust, dirt and lighting during construction;
 - c) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development above slab level shall take place until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) No development above slab level shall take place until details of the provision of 1 electric vehicle charging point have been submitted to and approved in writing by the local planning authority. The charging point shall be implemented prior to first occupation of the development hereby permitted and shall be retained thereafter as approved.
- 7) Prior to first occupation of the development hereby permitted the parking area shown on the approved plan shall be provided in accordance with details of surfacing and drainage that have previously been approved in writing by the local planning authority. The parking area shall thereafter be retained solely for its designated purpose.
- 8) Prior to first occupation of the development hereby permitted boundary treatments and soft landscaping, details of which have previously been submitted to and approved in writing by the local planning authority, shall have been implemented. They shall be retained thereafter as approved.
- 9) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking or re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A, B, C and E of that Order.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order amending, revoking or re-enacting that Order with or without modification) the dwelling hereby permitted shall only be used as a single family dwellinghouse falling within Class C3 of the Town and Country Planning (Use Classes) Order 1987(as amended) and for no other purpose.

End of Schedule of Conditions