The Planning Inspectorate

Appeal Decision

Site Visit made on 26 March 2021

by L McKay MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 April 2021

Appeal Ref: APP/D1265/W/20/3264720
Land adjoining Layton, Buckingham Road, Gillingham, Dorset SP8 4QF

- 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 C Gray against the decision of Dorset Council.
- The application Ref 2/2020/0867/FUL, dated 12 June 2020, was refused by notice dated 27 August 2020.
- The development proposed is 1 No dwelling and form 2 No. parking spaces (demolish existing garage and container)

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description in the header above is taken from the Council's decision notice. It describes the proposed development in more detail than the description on the application form and the appellant has accepted the change. I have therefore considered the appeal on that basis.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of 4 Buckingham Road in respect of light and outlook.

Reasons

4. The proposed dwelling would be two storeys high and roughly L-shaped, with the main front section wider and slightly taller than the rear part. The main part of the dwelling would extend rearwards approximately in line with the main part of 4 Buckingham Road, and would extend across the entrance door, hall window and dining room window in the side elevation of that property. Those openings currently have a largely open outlook over the low boundary fence towards the open part of the appeal site.

5. The rear part of the proposed dwelling would extend past a side kitchen window in an extension to No 4. The outlook from the kitchen, and light to this window, are currently significantly compromised by a large container sited close to the boundary. The window does however benefit from light in the mornings. The kitchen also has an obscure glazed rear door and 2 sun-pipes in the roof which provide some additional light but no meaningful outlook.

6. The hall is not a habitable room, however it is the main entrance to the dwelling and as such is well used and an important space in the dwelling. The dining room has only one small window and receives limited borrowed light

through an archway from the extended kitchen behind it. The sun-pipes do not serve this room. These windows would face the 2-storey side wall of the proposed dwelling at approximately 2 metres separation, and as such would have a very limited outlook. Consequently, due to its height and siting, the proposal would reduce light to the hallway and dining room below acceptable levels. It would also be an overbearing and oppressive feature in the outlook from these spaces, to the detriment of the living conditions of the occupiers of No 4.

7. The proposal would not significantly impact light to the rear kitchen door or sun-pipes due to the orientation of these features. They are however already shaded by the existing building and outbuildings for much of the day and therefore, despite the presence of the container, the side window is an important source of light to the kitchen. The proposed dwelling would be considerably taller than the container and extend significantly further forward in the site. Consequently, it would overshadow the kitchen window for part of the morning as well as during the afternoon, resulting in a significant and unacceptable reduction in light compared to the existing situation. This would further harm the living conditions of the occupiers of No 4.

8. There appears to be less glazing in the extension to No 4 than in the utility room it replaced. However, the occupants state they chose the maximum window size they were advised they could achieve, and added further light sources to address the impact of the container. As such, I cannot agree with the appellant's contention that the occupants made a conscious decision to reduce the size of windows facing the appeal site. In any event, I can only consider the proposal in relation to the current situation on site, which I have found would result in harm through loss of light to the kitchen.

9. Due to its height and scale, the proposed dwelling would be a dominant feature when looking out of the kitchen window. However, the rear part opposite the window would be set further from the boundary than the container and would not extend as far back into the site, allowing for an outlook from the kitchen towards the rear of the appeal site. Consequently, overall, the proposal would result in a different, but not materially poorer outlook from the kitchen than the existing situation.

10. Accordingly, the proposal would harm the living conditions of the occupiers of No 4 in respect of light and outlook. As such, it would conflict with Policy 25 of the North Dorset Local Plan Part 1 (LP), which deals with amenity.

Planning Balance and Conclusion

11. The proposal would provide infill housing within the settlement boundary of Gillingham in a location with very good access to facilities and services, as supported by the LP and the Gillingham Neighbourhood Plan. It would comply with other development plan policies in respect of its appearance, provision of parking and access, and would not result in overlooking of neighbouring properties. However, it would conflict with LP policies which seek to safeguard the living conditions of residents, which are consistent with the National Planning Policy Framework (the Framework) requirement to provide a high standard of amenity for existing and future users. I therefore afford this conflict very substantial weight. Consequently, I find that the proposal would conflict with the development plan read as a whole.

12. The Council confirms that it cannot currently demonstrate a 5-year supply of housing. Framework paragraph 11 d) is therefore engaged. I have not been provided with details of the extent of the shortfall, however the contribution of one additional dwelling to housing supply would be limited, and carries limited weight. The proposal would generate economic benefits through construction and occupation and would include sustainable construction measures. The benefits from one dwelling would however be very limited and carry very limited weight.

13. Planning permission was granted for a dwelling on the site in 2010, by which time No 4 had already been extended. When granting permission, the Council accepted some loss of light to the windows of No 4. However, that dwelling would have been sited further from the boundary with No 4 and the main part would not have extended as far back into the site as is now proposed. Therefore, the appeal proposal would have a materially greater impact on light and outlook to the windows of No 4 than the approved scheme. In any event, there is no substantive evidence before me that the permission remains extant and could be built out. I therefore afford the potential fall-back position minimal weight.

14. A 2m high boundary fence could be installed as permitted development, which would result in some reduction in light and outlook to the side windows of No 4. It would not be as tall as the proposed dwelling however, and as such would not have a comparable impact. This therefore carries very limited weight.

15. The appellant has provided examples of other dwellings nearby which are sited close together. I do not however have details of their internal layouts or what rooms their side windows serve. As such, I cannot be certain that the relationship is the same as in the situation before me. The existence of these dwellings does not therefore weigh in favour of the proposal.

16. If the proposal were permitted, the developer would have to deal with any contamination from oil leakage from barrels on site. This could be achieved without the proposed development however, and I understand that the Council is already aware of the issue. As such, the benefit of dealing with contamination carries very little weight.

17. The proposal would benefit from Framework support for boosting the supply of housing within settlements in accessible locations but would conflict with its policies in respect of amenity. As such, I consider that the adverse impacts of granting planning permission for the proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole.

18. Overall, taking account of the Framework and the above considerations, including the benefits of the development, I find that material considerations do not indicate that planning permission should be granted for the proposal, which conflicts with the development plan. The appeal is therefore dismissed.

L McKay

INSPECTOR