
Appeal Decision

Site visit made on 4 May 2021

by David Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th May 2021

Appeal Ref: APP/A2280/W/20/3257945

The Annexe, 4 Everest Way, Rochester, Kent ME2 3XA

- 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 Godswill Enyoisi against the decision of The Medway Council.
 - The application Ref MC/20/1199, dated 26 May 2020, was refused by notice dated 28 July 2020.
 - The development proposed is retrospective application for the conversion of existing annexe to a separate 2 bed dwelling with associated parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that the description of development on the decision notice differs from that of the application form. However, in view of the submitted appeal form and the content of the main parties' cases, I consider the description used is appropriate and does not prejudice either party.

Main Issues

3. The main issues for the appeal are:
 - whether or not the proposed accommodation would provide suitable living conditions for existing and future occupiers;
 - the effect of the development on Special Protection Areas and Ramsar Sites forming part of the National Sites Network; and
 - the effect of the development on the character and appearance of the area.

Reasons

Suitable living conditions

4. The national technical housing standards (March 2015) states that a 2-storey dwelling providing 2 bedrooms for 3 people should provide a minimum gross internal floor area of 70 square metres. The Council calculate that the appeal development only provides 68 square metres, although I observed from my site visit that the quality of the accommodation had not been compromised because of the 2 square metre difference. Whilst the accommodation does fall

- beneath the standard, the difference is marginal and would not, in itself, be such a deficiency as to cause cramped or uncomfortable living conditions.
5. However, No.4 Everest Lane is directly adjacent to the appeal development. It has a ground floor lounge that is served by two openings comprising a south facing window and a west facing set of patio doors. The window overlooks the parking area and driveway, whilst the doors overlook and open directly onto a small hard-surfaced patio.
 6. The garden for the proposed dwelling consists of the patio area only, and there are no proposals to remove the patio doors from the flank of No.4. This unacceptably and immediately close arrangement would result in a complete loss of privacy for both existing and future occupants, harmfully affecting the enjoyment of the respective spaces. If a physical boundary were to be formed, this would likely obstruct any view from the patio doors to the detriment of the outlook from this habitable room of No.4.
 7. Whilst I acknowledge that the sharing of a driveway and parking area is not an unusual arrangement, the remaining view from the lounge window of No.4 would be directly onto the parking spaces for the appeal development. There is scope for parking to take place in front of this window at present, although the use of the area by persons not related to No.4 would introduce noise and disturbance in close proximity to this window. This would compound the loss of enjoyment of the living space in this part of No.4, to the detriment of its occupants.
 8. I conclude that the proposed development as a totality would not provide suitable living conditions for existing or future occupiers because of an unacceptable loss of privacy and harmful noise and disturbance impacts. This would be contrary to policy BNE2 of the Medway Local Plan 2003 (the Local Plan), which seeks to secure and protect amenities. The proposal would also fail the environmental objective of sustainability, and to meet the principles of good design, as set out in the National Planning Policy Framework.

The effect upon the National Sites Network

9. In 2018 the Court of Justice of the European Union ruled that the decision maker, when considering the effect that a proposal may have on a European Site¹, must consider mitigation within the framework of an Appropriate Assessment rather than at the screening stage. This responsibility now falls to me within this appeal.
10. The Habitats Regulations require that permission may only be granted after having ascertained that it will not affect the integrity of the National Sites Network.
11. The Council has provided its own Appropriate Assessment in consultation with Natural England to the appeal, dated 16 June 2020. This identifies that there are three combined Special Protection Areas (SPA) and Ramsar Sites within 6km of the appeal site, namely Thames Estuary and Marshes, Medway Estuary and Marshes, and the Swale. All three are designated due to being breeding and feeding grounds for migratory bird species.

¹ Now the National Sites Network following the Conservation of Habitats and Species (Amendment)(EU Exit) Regulations 2019.

12. The Council reports that it has an adopted Strategic Access Management and Monitoring Strategy (SAMM), which seeks to secure funding for the strategic measures necessary to manage and mitigate the effects of recreational disturbance arising from new residential development upon these designated sites. A tariff of £250.39 per dwelling towards SAMM is required.
13. The proposal would result in a new dwelling, and consequently a new household, being formed on the appeal site. The increase in residents would be likely to have a significant effect, either alone or in-combination, upon the designated sites by way of recreational disturbance.
14. The appellant has not provided environmental information with the appeal and has not committed to make or secure a financial contribution towards the SAMM. Considering the importance of the issue, this cannot be subject to condition as suggested by the appellant and may give rise to an unmitigated effect upon the integrity of the National Sites Network. However, given that I am dismissing the appeal on other grounds I have not had need to undertake the task of Appropriate Assessment.

Character and appearance of the area

15. The appeal site sits within a residential area comprising an eclectic mix of single and two storey dwellings, which follow the naturally sloping topography of Everest Lane. Dwellings are typically set back from the highway, although a notable exception is the terrace of dwellings closer to the junction with Mill Road to the southwest. Garden size and shape differs considerably for properties in the immediate locality.
16. The appeal development, in terms of the physical building, is already in situ following an earlier grant of planning permission. Whether in residential use as an annexe as permitted, or for independent accommodation as proposed, its relationship to Everest Lane, to the boundary hedge on the embankment at the frontage of No.4 and to neighbouring dwellings is already established.
17. To this extent, subdivision of the plot and the use of the building as a separate dwelling would not cause harm to the established character or appearance of the street scene. The proposed plot size, albeit with a relatively square and squat garden, would not be wholly out of keeping with the prevailing pattern of development in the area.
18. I noted from my site visit a diverse range of roof forms, brick types, render colours and architectural styles throughout the locality, with no distinct style or form prevalent. Whilst the appeal development has timber weatherboarding at first floor level, the only such property to have this style and material in Everest Lane, this would not be visually discordant with the area and would not represent a poor design solution to the front elevation of the building.
19. Notwithstanding my earlier findings on the plots' subdivision from No.4 with regards to living conditions, I conclude that the appeal development would not cause harm to the character or appearance of the area. The proposal would therefore comply with policy BNE1 of the Local Plan, which seeks development to be of a design appropriate to the character, appearance and functioning of the built environment.

Other Matters

20. The proposed dwelling would add to the housing stock in the settlement and would therefore have some limited economic benefit. This does not however overcome the fundamental concerns with the proposal set out above, nor does it outweigh the social and environmental harms identified.

Conclusion

21. Whilst the design of the development would not harm the character or appearance of the area, this does not outweigh the level of harm I have identified to the living conditions of occupiers nor the level of potential harmful effects upon the natural environment.
22. For the reasons set out above, I dismiss the appeal.

David Wallis

INSPECTOR