
Appeal Decision

Site visit made on 12 July 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2021

Appeal Ref: APP/X2220/W/21/3271848
39 High Street, Dover CT16 1EB

- 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 Kent Property Source Ltd against the decision of Dover District Council.
 - The application Ref 20/01183, dated 15 October 2020, was refused by notice dated 17 December 2020.
 - The development proposed is new bungalow.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development upon the living conditions of both existing and future occupiers.

Reasons

3. The garden land to which the proposal relates is to the rear of existing flats. The application details show the flats to be within the appellant's ownership. The appellant advises that the garden is not utilised, however at the Council Officer's site visit he observed that the garden space was used for sitting outside and to dry laundry. The rear of the property can be accessed by some occupiers via the enclosed corridor leading from High Street and the external steps that lead up to the garden. As such, even if not specifically allocated for use by the occupiers of the existing flats, the garden appears to be accessible to and can be used by some occupiers. On the available evidence I have no substantive reason that would lead me to conclude that access to the garden for existing occupiers has been or is restricted.
4. The existing garden is the only area of flat green space associated with the flats. The proposal would remove this useable area of garden. The area in front of the landlord's storage outbuilding could alternatively be used as a communal patio/terrace. However, this is a sunken enclosed area that is used as a throughfare providing access to the storage building. It would not host the same attractive outdoor space as provided by the existing garden. The loss of outdoor space would have a harmful impact upon the living conditions that those occupiers who can access the garden should reasonably expect to enjoy.

5. The proposed bungalow would be sited at an elevated position within the rear garden. A fence is proposed at the garden between the bungalow and 37/39 High Street. The fence would be of sufficient height to prevent overlooking from taking place of the bedroom and garden of the proposed bungalow from the existing flats within 37/39 High Street. In addition, whilst the fence would be visible in the outlook from the flats, there would be sufficient distance between the rear of 37/39 High Street and the proposed fence to ensure significant harm would not occur to the outlook of the existing occupiers.
6. The appeal site shares its south-eastern boundary with 35 High Street. The land to the rear of No 35 is sunken at a significantly lower level to that of the appeal site. There is living accommodation to the rear of No 35 located at the lower ground level. Concern is expressed by the Council that if a fence were to be erected along the side boundary of the appeal site, this would increase the sense of enclosure and further impact upon the already limited outlook from No 35 and would reduce light to the living spaces of No 35.
7. Any enclosure erected would be some distance from the living accommodation at No 35. Although the enclosure would be visible to the occupiers, it would not substantially alter their outlook and there would be sufficient separation not to result in a significant sense of enclosure occurring. The orientation of the proposal to the living accommodation and separation between developments would not significantly reduce light to that property. I do not consider significant harm would arise to the existing occupiers of 35 High Street in these respects.
8. Access is shown to the alleyway at the rear of the site; however, the alleyway does not form part of the application proposal and I saw at my visit that the alleyway was gated and locked. It does not appear that access to Prior Hill has been secured as part of the proposal. As such, occupiers of the existing flats would be unlikely to use the area around the proposed dwelling as an access thoroughfare. Therefore, the living conditions of future occupiers of the bungalow would be unlikely to be significantly harmed.
9. The Council has raised inappropriate siting and lack of suitable access to the proposed dwelling in its reason for refusal. The access to the bungalow would be via an enclosed passageway through 39 High Street with the access route at the rear involving external steps. Whilst perhaps an unconventional access arrangement, I see no substantive reason why the access arrangements would be unsuitable in this case.
10. For the above reasons, I conclude that the proposed development would be harmful to the living conditions of existing occupiers specifically with relation to the loss of garden space. The proposal would, therefore, conflict with Policies C1 and H1 of the National Design Guide 2019 and Paragraph 127(f) of the National Planning Policy Framework (the Framework) that seek, amongst other matters, development to have a high standard of amenity for existing and futures users and that promotes quality of life.

Other matters

11. I acknowledge that there are residential dwellings to the rear of neighbouring properties, however those are located at a lower ground level to that of the proposal before me. The circumstances are, therefore, different and, as such, the proposal can and should be considered on its own merits.

12. The proposal would be located within Dover town centre close to services, facilities and public transport and the creation of a dwelling would contribute to the district's housing supply making best use of the site. Whilst there are social and economic benefits associated with the proposal, the adverse impact to the living conditions of existing occupiers would bring the proposal into conflict with the environmental objectives of the Framework. This significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

13. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the appeal should be dismissed.

Nicola Davies

INSPECTOR