



Appeal Decisions

Site visit made on 21 September 2021

by Ian McHugh Dip TP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 October 2021.

Appeal A Ref: APP/A2280/D/21/3275817

7 Princes Avenue, Walderslade, Chatham, ME5 8BA

- 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 Mike Tovey against the decision of Medway Council.
 - The application Ref MC/21/0419, dated 13 February 2021, was refused by notice dated 13 May 2021.
 - The development proposed is part excavation of ground to make ground level for construction of outbuilding in garden.
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Appeal B Ref: APP/A2280/D/21/3279266

7 Princes Avenue, Walderslade, Chatham, ME5 8BA

- 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 Mike Tovey against the decision of Medway Council.
 - The application Ref MC/21/1425, dated 14 May 2021, was refused by notice dated 16 July 2021.
 - The development proposed is construction of outbuilding.
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Decisions

Appeal A Ref: APP/A2280/D/21/3275817

1. The appeal is dismissed.

Appeal B Ref: APP/A2280/D/21/3279266

2. The appeal is dismissed.

Procedural Matters

3. The description of the development in respect of Appeal B as stated in the banner heading above is taken from the planning application form. I note that the Council's decision notice and the appeal form include reference to part excavation of the ground. Whilst the excavation is required to facilitate the construction of the outbuilding, the planning application form is not inaccurate. Nevertheless, I have considered the excavation works in reaching my decision.
4. Since the appeals were lodged, a revised version of the National Planning Policy Framework (the Framework) was published on 20 July 2021. In my opinion, this does not materially change the planning policy context in respect of the main issue.

Main Issue

5. The main issue for both appeals is the effect of the proposals on the character and appearance of the area.

The Site and its Surroundings

6. The appeal property is a semi-detached dwelling, which is situated in a residential area. The dwelling fronts Princes Avenue, with the rear garden of the property backing onto Walderslade Road. A particular feature of the site and its neighbouring properties along this section of Princes Avenue is the steeply sloping rear garden, which rises towards Walderslade Road. I noted during my site visit, that many of the gardens have been terraced. Some of these have involved quite extensive engineering works in the form of retaining walls/fences and steps.
7. A number of the rear gardens also contain outbuildings that vary in scale and appearance. These include an outbuilding at number 21 Princes Avenue, which was granted planning permission at appeal on 24 June 2013 (APP/A2280/D/13/2197658). Notwithstanding that decision, I have considered the current appeals on their individual merits and I do not accept that it should create a precedent for other developments.

The Development Plan and Relevant Guidance

8. Policy BNE1 of the adopted Medway Local Plan 2003 (LP) and paragraph 130 of the Framework seek (amongst other things) to ensure that new development makes a positive contribution to its surroundings and respects local character, including spaces within the area. In addition, Policy BNE2 of the LP requires all new development to protect the amenities enjoyed by the occupants of nearby properties. I have considered these in my reasoning below.

Reasons

Appeal A

9. The proposal is to erect a detached outbuilding, on the rearmost terraced section of the garden. It would be 4.8m tall and would cover most of the width of the plot. The building would appear as a two-storey structure with upper and lower levels. It would be partly screened by fencing and artificial hedging. The submitted plans also show that it would appear above the rear boundary fence that adjoins Walderslade Road. The building would be timber-clad.
10. The Council contends that the proposal would be a prominent and alien form of development, because of its design, scale and height. I agree with that assessment. Although the proposed outbuilding would be partially screened from public views from Princes Avenue, by the existing dwellings, it would still be seen from vantage points between dwellings and from further back along Princes Avenue. Furthermore, it would be particularly striking and imposing when viewed from the rear of neighbouring dwellings, notwithstanding the intervening fences and vegetation.
11. The Council also refers (in its officer's report) to the visual impact of the walls that have been constructed. Whilst the terraces and associated structures give a highly engineered and man-made appearance to the rear garden, I do not find these unacceptable. They appear to be of high quality and provide useable

and practicable outdoor space for the applicant to enjoy. However, this does not alter my opinion regarding the impact of the outbuilding and the harm that would be caused to the character and appearance of the area.

Appeal B

12. This proposal is effectively a resubmission of the proposal considered under Appeal A. The proposed outbuilding would be constructed on the same part of the rear garden, but it would be slightly lower in height, at 4.5m and narrower in width. In addition, the lower section would be open-fronted with the upper section supported on 2m high stilts.
13. Notwithstanding these alterations, the overall impact of the structure would not be significantly different and it would remain as an overly dominant and visually intrusive feature, that would be harmful to the character and appearance of the area. Consequently, it would conflict with Policies BNE1 and BNE2 of the LP and with paragraph 130 of the Framework.

Other Matters (Both Appeals)

14. In reaching my decision, I have given weight to the personal needs of the appellant and the benefits that the proposed outbuildings would have on his health. I accept that outdoor space can contribute positively towards a person's physical and mental well-being.
15. Whilst, I have concluded that the appeal proposals are unacceptable, that does not mean that the principle of an outbuilding within the rear garden is also unacceptable. I see no reason as to why a modified design could not be agreed between the appellant and the Council. This could also incorporate an emergency pedestrian access onto Walderslade Road, subject to the appellant obtaining any necessary consents.
16. I note that concerns have been raised regarding overlooking into neighbouring property. However, the steeply sloping nature of rear gardens inevitably results in some mutual overlooking and I do not find against either of the appeal proposals for that reason.

Conclusion

17. For the reasons given above, it is concluded that both appeals be dismissed.

Ian McHugh

INSPECTOR