



Appeal Decision

Site visit made on 7 December 2021

by C Shearing

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/A2280/W/21/3275059

8 Salisbury Avenue, Rainham, Gillingham, KENT ME8 0BH

- 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 Andy Sheppard against the decision of Medway Council.
 - The application Ref MC/20/3146, dated 7 December 2020, was refused by notice dated 3 March 2021.
 - The development proposed is "Split plot in 2. Addition of new 2 storey 4 bed property in Lyra Close in back half of original plot. This will replace the 1/2 finished Garage that takes up the space currently"
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Decision

1. The appeal is allowed and planning permission is granted for construction of a 4-bedroom detached dwelling with associated parking at 8 Salisbury Avenue, Gillingham, ME8 0BH in accordance with the terms of the application, Ref MC/20/3146, dated 7 December 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development has been amended by the Council to read "Construction of a 4-bedroom detached dwelling with associated parking" and this more accurately and concisely describes the development. I have therefore determined the appeal on this basis.
3. During the course of the appeal the revised National Planning Policy Framework (the Framework) was published. There are no substantive changes relevant to the appeal before me and therefore no interested parties would be prejudiced by my consideration of the 2021 version of the Framework.

Main Issue

4. The main issue is the effect of the development proposed on the character and appearance of the area.

Reasons

5. Lyra Close exists between numbers 8 and 6 Salisbury Avenue and provides access to a number of detached residential properties behind, as well as access to some rear gardens and garages of properties on Salisbury Avenue. The properties on Lyra Close are modern in their appearance, generally comprising two storeys with varied front building lines and set backs from the street to allow for off street parking in front of each property. Development on Lyra Close includes a recent two storey detached house set to the rear of numbers 4 and 6 Salisbury Avenue, which faces the appeal site.

6. The front elevation of the development proposed would be set closer to the edge of the road than other properties on Lyra Close, however the existence of the gravelled verge to the front of the site (which lies outside the appeal site), would provide a natural set back and a comfortable relationship with the street edge. The northern side elevation of the proposed house would project closer to the edge of Lyra Close than the side wall of 8 Salisbury Avenue, however due to the distance between them and the presence of the verge between the site and the road (which again lies outside the appeal site), I consider the development would not appear overbearing or visually prominent when viewed from Salisbury Avenue. Overall, given the set backs of the proposed development from the edge of the road and the character of the immediate area, it would sit reasonably comfortably on its plot and would not appear overly cramped or out of character with the other developments nearby.
7. The height of the development proposed would comprise two full storeys with a pitched roof above. Despite the absence of other two storey houses on this side of Lyra Close, the development proposed would be similar in its character and appearance to other properties that address Lyra Close and would not cause unacceptable visual harm.
8. The associated subdivision of the plot of number 8 Salisbury Avenue would also be unlikely to be perceivable from the surrounding area due to the presence of close boarded timber fencing on the boundary and the difference in ground levels. Given that such boundary treatments are commonplace in this area, it is likely that similar screening would continue to exist in this position.
9. Given the particular nature of the development proposed and its surrounding context I therefore conclude that the development would comply with policies BNE1 and H9 of the Medway Local Plan 2003 which in summary and among other things, require development to be appropriate to the character and appearance of the area.

Other Matters

10. I have had regard to the contention that the site plan is incorrect in relation to the surrounding land and that the appellant does not benefit from access across that land. The red line boundary plan is considered to be adequate for the purposes of identifying the appeal site. While access over part of this area would be required to facilitate the development, matters related to ownership of land would be separate to the planning merits of the proposal. Matters relating to works already undertaken on this land are a matter between the relevant parties and these matters would not ultimately influence the assessment of the appeal proposal.
11. I have also had regard to concerns relating to the effect on the privacy of the other nearby properties, availability of parking and noise and disturbance from the construction process. While the new house would be closer to the properties opposite on Lyra Close, in light of the distances between them and as outlook from those properties is achieved via multiple windows, I do not consider that the development proposed would cause unacceptable harm to the occupants of those properties. I note the areas around the site were not used for parking at the time of my visit and appeared to be privately controlled. I have no evidence that the development would cause an increase in parking pressures that would be harmful to highway safety, nor that any visibility splays would be harmfully impacted.

12. With regard to potential for disturbance arising from the construction process, the works would be time limited and it would not be reasonable to withhold planning permission on this basis.

Conditions

13. The Council have suggested a number of conditions. I have considered these against the tests contained in the Framework and Planning Practice Guidance and I have amended the wording of some of those conditions without fundamentally altering their aims.
14. I have imposed conditions requiring compliance with the submitted plans to provide certainty, that materials are used in the development are to match those in similar developments in Lyra Close, and that details of boundary treatments are submitted for the Council's approval to ensure these elements preserve the character of the area. Conditions are also imposed relating to land contamination and gas protection to ensure the development is safe for its future users. In the interests of highway safety, the parking areas shown should be maintained and available for use at all times, and an electric vehicle charging point should be delivered to encourage the use of sustainable means of transport. In light of the relationship of the appeal site to the neighbouring properties and also the character of the area, I do not consider it necessary to remove permitted development rights in this instance, nor to restrict the use class of the property. For similar reasons relating to the scale of the development and its relationship to the highway and surrounding development, I do not consider it reasonable to impose the restrictions of a Construction Environmental Management Plan in this instance.

Conclusion

15. For the reasons discussed above, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed.

C Shearing

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not 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: 02 'Plans- Elevations' and unnumbered plans by Architechnology Design showing: existing and proposed site location plan and site plan, and; proposed ground floor, first floor and roof plan.
- 3) All materials used externally shall match those of the adjacent properties Nos. 1-9 Lyra Close.

- 4) Prior to the first occupation of the dwelling hereby approved, a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed in accordance with the approved details before the dwelling is occupied and shall thereafter be retained.
- 5) Development above the existing ground level of the site shall not commence until details of gas protection measures to be installed have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details and the gas protection measures shall be retained thereafter.
- 6) If, during development, contamination not previously identified is found to be present at the site, no further development shall take place until a method statement has been submitted to and approved in writing by the Local Planning Authority. The Method Statement must detail how this unsuspected contamination shall be dealt with. The development shall thereafter be implemented in accordance with the approved Method Statement.
- 7) No development shall take place above ground floor slab level until details of the provision of 1 electric vehicle charging point has been submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained in working order.
- 8) The dwelling hereby approved shall not be occupied until the area shown on the approved proposed site plan and floor plans as a vehicle parking space and garage has been provided, surfaced and drained. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garage.