



# Appeal Decision

Site visit made on 22 August 2022

**by Joanna Gilbert MA (Hons) MTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 24<sup>th</sup> August 2022**

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**Appeal Ref: APP/A2280/W/22/3298160**

**63 Duncan Road, Gillingham ME7 4LA.**

- 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 Mrs Anne O'Neill against the decision of Medway Council.
  - The application Ref MC/21/2279, dated 27 July 2021, was refused by notice dated 17 November 2021.
  - The development proposed is new 2 bedroom detached bungalow.
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## Decision

1. The appeal is dismissed.

## Main Issues

2. The main issues in this appeal are the effect of the proposed development on:
  - a) the character and appearance of the area; and
  - b) the living conditions of the future occupiers of the proposed development and of neighbouring occupiers at 12 - 26 Franklin Road, in relation to outlook.

## Reasons

### *Character and appearance*

3. Formerly part of the rear garden of the two-storey detached house at 63 Duncan Road, the site is narrow and directly adjoins the ends of rear gardens of two-storey terraced houses on Franklin Road, and the roadway on Merlin Way. Merlin Way contains modern residential development, including a two and three-storey flatted block at Montague House which faces the site, and a pair of semi-detached single-storey bungalows. The site presently comprises a partly fenced and overgrown area of land.
4. The proposed development would introduce a two-bedroom detached bungalow, closely abutting the fenced site boundaries on three sides. The proposed bungalow would have a patio and grassed garden area to one side. Beyond the garden area, there would be block paving for a parking space.
5. The proposed development would introduce a single-storey building of 5.2m in width, which would span almost the full width of this narrow site. When taken with the 16.5m length of the building across the site and a height of some 4m to the highest point of the proposed roof, the scale, mass, height and siting of the proposed development would appear cramped and incongruous. This contrived and constrained layout would be emphasised by the juxtaposition of a 1.8m high fence surrounding the whole development, the limited gaps

- between the building and the fencing to its boundaries, the small extent of outdoor space around the building and adjacent to it and the parking area.
6. My attention has been drawn to the nearby bungalows at 1A and 1B Merlin Way. These properties are also cramped within their sites and lack pavement abutting their frontages, but they do appear to benefit from larger gaps to the rear than would be the case for the proposed development.
  7. While the eaves height of the proposed development would be very slightly lower than that permitted for an outbuilding under The Town and Country Planning (General Permitted Development) (England) Order 2015, this proposal requires planning permission.
  8. The character and appearance of the area is mixed, with modern flatted, terraced and semi-detached residential development on Merlin Way surrounded by older, largely terraced housing on neighbouring streets. However, this varied spatial pattern of development and the position of the garden to the side of the proposed development does not alter my opinion about the cramped and incongruous nature of the proposed development.
  9. In conclusion, the proposed development would harm the character and appearance of the area. It would therefore conflict with Policies BNE1 and H4 of the Medway Local Plan 2003 (Local Plan) and paragraphs 126 and 130 of the National Planning Policy Framework (the Framework). These policies, amongst other things, require development to be satisfactory in scale, mass, layout and siting, to provide a clear improvement in the local environment, and to address the need for high quality design that will function well and add to the overall quality of the area.

#### *Living conditions*

10. The site adjoins the small rear gardens of terraced properties at 12 – 26 Franklin Road. Beyond the rear gardens, the houses at Nos 12 - 26 have a number of windows facing the site.
11. The proposed bungalow would be close to three of its boundaries, with 1.8m fencing to all boundaries and a grassed area and patio to one side. All the proposed windows would face fencing, while patio doors serving the lounge/kitchen/diner would face the patio and grassed area. Rooflights serving a bathroom and a hallway would face the nearest Franklin Road properties.
12. The Planning Committee raised concerns about the quality of living conditions for the proposed development's future occupiers. While the lounge/kitchen/diner would offer an outlook over the small patio and grassed area, the other windows serving the proposed development would have only limited outlook. Given the positioning of fenestration for the bedrooms adjacent to tall fencing, the outlook for future occupiers would be poor.
13. Furthermore, given its proximity to the small rear gardens of Nos 12 - 26 and the proposed development's height and length, the proposed development would have an adverse effect on outlook for residents of adjoining properties on Franklin Road. Conditions removing permitted development rights and requiring a construction management plan would not overcome my concerns about living conditions.

14. Neighbouring residents have raised concerns about additional effects on living conditions. Given the positioning of windows and rooflights and the height of proposed fencing, there would be no detrimental effects on the privacy of adjoining occupiers. With regard to noise, there is no evidence which would indicate that there would be a negative effect on noise. I also find that the proposed development would not have a harmful effect on light to the gardens or houses along Franklin Road, given its height and position.
15. In conclusion, the proposed development would have a harmful effect on the living conditions of the future occupiers of the proposed development and of neighbouring occupiers on Franklin Road, in relation to outlook. It would therefore conflict with Local Plan Policy BNE2 and paragraph 130 f) of the Framework, which require a high standard of amenity for future occupiers and seek to protect the amenities enjoyed by nearby and adjacent properties.

### **Planning Balance**

16. Though reference has been made to an earlier appeal<sup>1</sup> for housing land supply purposes, the Council's latest Monitoring Report (December 2021) indicates a provision of some 3.64 years. The Government's standard methodology for calculating housing need (March 2022) indicates that Medway should deliver 1,675 homes per year. In January 2022, the Housing Delivery Test showed that the Council delivered 67% of its housing need. As it is not possible for the Council to demonstrate a 5 year housing land supply in accordance with paragraph 74 of the Framework, the policies which are most important for determining the application are out-of-date and paragraph 11(d) ii of the Framework should be applied.
17. The proposed development would negatively affect the character and appearance of the area, and the living conditions of future occupiers of the proposed development and of neighbouring occupiers on Franklin Road. In these respects, the proposed development would be contrary to the Framework's aims to achieve good design and a high standard of amenity.
18. Notwithstanding paragraph 69 of the Framework which states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area, the benefits associated with the appeal scheme would be the provision of one additional unit in the form of a lifetime home built to modern energy efficiency and technical housing standards. This is a very modest benefit. While the site is presently in disrepair, I can see no impediment to the improvement of the site's appearance, regardless of the outcome of this appeal. This would not represent a benefit.
19. Consequently, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole. This leads me to find that the appeal should be dismissed.

### **Other Matters**

20. The appeal site lies within 6 kilometres of the North Kent Marshes Special Protection Areas/Ramsar sites. The Conservation of Habitats and Species Regulations 2017 requires that a competent authority makes an Appropriate Assessment (AA) of the implications of the plan or project on the integrity of

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<sup>1</sup> APP/A2280/W/20/3259868, decision issued 3 November 2021.

the sites in view of their conservation objectives. I note that the appellant has made a Strategic Access Management and Monitoring Strategy payment of £253.83 to the Council. Given my findings on the main issues in this appeal, I have not carried out an AA and reached a finding on this payment.

21. The site has been subject to a previous planning application for two houses, which was refused. This appeal has sought to address the concerns raised in relation to the previous scheme. The proposed development was recommended for approval by officers and was refused at Planning Committee. Elected members are permitted to reach a different view from officers, providing they have identified clear planning reasons for their decision. It will be seen from my decision that I concur with the Committee's views in this instance.
22. Notwithstanding the adherence to the national described space standards; the depth of the proposed garden; no harm being found to highway safety; and the location of the site within easy reach of services, public transport and the strategic road network, and open spaces; provision of soakaways for surface water; minimised water usage; and use of sustainable materials and electric vehicle charging, these matters do not overcome my concerns about character and appearance and living conditions.
23. Concerns have been raised by local residents about parking on Merlin Way and access for emergency services, refuse and recycling, construction noise, and building across a ransom strip. I have not dealt with these matters as they would not alter my decision.

### **Conclusion**

24. For the reasons given above, having considered the development plan as a whole, the approach in the Framework, and all other material considerations, the appeal is dismissed.

*Joanna Gilbert*

INSPECTOR