



Appeal Decision

Site visit made on 10 October 2022

by N Praine BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 November 2022

Appeal Ref: APP/A2280/W/21/3281457

16 Ordnance Terrace, Chatham ME4 6PS

- 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 Larne Abudu against the decision of Medway Council.
 - The application Ref 21/1381, dated 20 April 2021, was refused by notice dated 6 July 2021.
 - The development proposed is described as the conversion of dwelling to 4 one bedroom flats including a part two/part single storey extension to the rear and forming a courtyard to the basement flat to the rear. Installation of new dormer to the rear and also excavation works to front to form a light well for the basement flat and associated works (demolition of two storey rear element).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Drawing No A102 B, Proposed Elevations and Floor Layouts, was submitted with the appeal. With regard to the 'Wheatcroft Principles' established under *Bernard Wheatcroft Ltd v SSE* 1982, this addendum drawing would add landscaping while increasing the depth of the rear light well. The addendum drawing would also revise the layout of rooms in the basement.
3. There is some uncertainty surrounding the addendum drawing as it is numbered A102 B, which is the same drawing number the Council considered in its decision notice. Notwithstanding this and despite the agent suggesting the loft floor now proposes a studio flat, the addendum drawing still contains a double bed, and the proposed loft floor plan shows no discernible changes over the refused scheme.
4. The Procedural Guide – Planning Appeals – England at Annex M.2.1, makes it clear that the appeal process should not be used to evolve a scheme. It is important that what is considered by me is essentially what was considered by the Council, and on which interested party's views were sought. Appeals are generally considered on the basis of the scheme and the plans which were before the Council at the time of their decision. I have not therefore considered the amended drawing in reaching my decision.
5. During the course of the appeal, the appellant submitted a signed and dated unilateral undertaking under section 106 of the Town and Country Planning Act 1990. This provides strategic mitigation measures, including monitoring costs, to avoid adverse effects on the Special Protection Areas of the Thames Estuary

and Marshes, and the Medway Estuary and Marshes. I come back to this later in my decision.

Main Issues

6. The main issues are the effect of the proposed development on:

- The living conditions of the future occupants with particular reference to floorspace, light and outlook; and
- The character and appearance of the area.

Reasons

Living Conditions of Future Occupiers

7. The submitted drawings indicate that a sizable section of the proposed bedroom floorspace, in the loft space, would be under a pitched roof with reduced headroom. It has not been clearly demonstrated, within the evidence before me, that this reducing headroom would avoid a space which is cramped and difficult to fit furniture in.
8. The proposed basement flat would be served by lightwells to the front and rear. In this case, the outlook from the proposed basement flat, would be directly onto walls with limited separation between each window and these walls. Such limitations are likely to create a dark and gloomy living space with a reliance on artificial lighting. Consequently, the appellant has not clearly demonstrated that there would be any meaningful outlook or adequate light entering the flat from these windows.
9. The proposed development would consequently have an unacceptably harmful effect on the living conditions of the future occupants with particular reference to internal floor space, light and outlook. The proposal would therefore be contrary to the relevant provisions of Policy BNE2 of the Medway Local Plan 2003 (the Local Plan) and paragraph 130(f) of the National Planning Policy Framework (the Framework). These, amongst other things, address the need for high quality design therefore respecting the living conditions of residential occupiers.

Character and Appearance

10. The appeal building sits within a terrace of buildings. When viewed from the rear, while there is some similarity within the terrace, there is also variation in the form, scale, design, and proportions of some of the buildings. This is particularly noticeable at 13 and 18 Ordinance Terrace (Nos 13 and 18) which have generous flat roofed rear projections up to 3 stories in height.
11. While the development proposal is larger than the host building, the front of the building would remain predominantly as existing with the main elements of the development to the rear. Given its location and screening, the proposed development would have limited visual impact from public vantage points with main views achieved from adjoining gardens.
12. I acknowledge the extensions to the rear would be generous when compared to the host building, however, these would be experienced in the context of the larger extensions at Nos 13 and 18, and limited visibility from public viewpoints. The development as proposed also takes its roof design, mass and

scale cues from these existing properties (particularly No 13). For these reasons, when experienced as a whole, the proposed development, while larger, would acceptably be assimilated within the existing terrace.

13. I therefore find that the development would not cause unacceptable harm to the character and appearance of the area. Accordingly, there would be no conflict with the relevant provisions of Policy BNE1 of the Local Plan and paragraphs 126 and 130 of the Framework all of which seek, amongst other things, to ensure that development is sympathetic to the character and appearance of the area.

Other Matters

14. The Council is unable to demonstrate a five-year supply of deliverable housing sites. As such, paragraph 11 of the National Planning Policy Framework (the Framework) should therefore be applied. The provision of three net additional units would make a contribution to housing stock. Nevertheless, given the relatively limited quantum of new development under consideration, when taken as a whole, the cumulative weight attributable to these benefits is moderate.
15. While I have found no harm in respect to the impact on the character and appearance of the area this is a neutral matter which neither weighs for or against the proposed development. There would be, however, a significant degree of harm arising from the impact upon the living conditions of the future occupants. When assessed against the policies in the Framework taken as a whole, this harm would significantly and demonstrably outweigh the benefits. Therefore, the conflict with the development plan is not outweighed by other considerations including the Framework.
16. The appeal site is within influencing distance of the Special Protection Areas of the Thames Estuary and Marshes, and the Medway Estuary and Marshes. I am in receipt of a signed and dated unilateral undertaking which secures mitigation measures. However, as I am dismissing the appeal for other reasons, I do not need to carry out an appropriate assessment as required under the Conservation of Habitats and Species Regulations 2017 (as amended) and therefore do not need to consider this matter any further.

Conclusion

17. As such, the proposal is contrary to the development plan as a whole and there are no other material considerations of sufficient weight to indicate a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

N Praine

INSPECTOR