



Appeal Decision

Site visit made on 28 August 2024

by Megan Thomas K.C. Barrister-at-Law

an Inspector appointed by the Secretary of State

Decision date: 12 September 2024

Appeal Ref: APP/A2280/D/24/3343941

11 Windward Road, Rochester ME1 2ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mrs Claire Brackley against the decision of Medway Council.
 - The application Ref. is MC/24/0045.
 - The development proposed is engineering works to front to provide a vehicle hardstanding and crossover.
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Decision

1. The appeal is allowed and planning permission is granted for engineering works to front to provide a vehicle hardstanding and crossover at 11 Windward Road, Rochester ME1 2ND in accordance with the application Ref.MC/24/0045 dated 8 January 2024 subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
 - 3) The development hereby permitted shall be carried out in accordance with the following approved plans: HE/ADAPT-D3 (Location and Block Plans), HE/ADAPT-D1 (Existing and Proposed Site Layout Plans), HE/ADAPT-D2 (Existing and Proposed Front Elevations) & HE/ACCESS ADAPT-D4 (Existing and Proposed Sections as amended showing depth of hardstanding at 4800mm).
 - 4) Notwithstanding the approved plans, the development hereby permitted shall be provided so as to permit pedestrian visibility splays of 2.0m by 2.0m at the junction of the driveway and the adjacent footway from their point of intersection. The areas within these splays shall be kept permanently free of all obstructions to visibility over a height of 0.6m above carriageway level.
 - 5) The front parking area shall not be brought into use until it has been formed from permeable surfacing materials or has been provided with drainage arrangements within the site which shall thereafter be retained.

Procedural Matters

2. The appellant requests that drawing HE/ACCESS ADAPT-04 (showing sections) is amended by the submission of an amended plan with the same drawing number and same date, which accompanies her Statement of Appeal. This shows a deeper hardstanding dimension of 4800mm as opposed to a dimension 4719mm on the drawing submitted with the application. I shall accept this amended drawing as I do not consider it prejudices any other party because submitted drawing HE/ADAPT-01 showed a depth in plan form of 4800mm in any event.
3. In the box heading above I have used the description of the proposal from the "Decision Notice" issued by the Council because it most accurately describes what development is proposed in the planning application. I have taken into account the reasons and information given in the description of the development as set out in the Application Form.

Main Issues

4. The main issues in the appeal are the effect of the proposal on the character and appearance of the host dwelling and wider area, and whether the proposal would result in harm to pedestrian and/or highway safety.

Reasons

Character and appearance

5. Windward Road runs in a broadly north south direction and is located within a housing estate in Rochester. It has a 30mph speed limit. The appeal site, no.11, is on the east side of the road. On the west side of the road, the dwellings are located below road level and there is a grassed bank down to those dwellings. On-road parking is provided on the west side of Windward Road which leaves a width for one line of traffic to pass and repass when vehicles are parked there.
6. On my site visit I noted that some vehicles, most likely belonging to or associated with the dwellings on the east side of the road where the appeal site is, park straddled over the kerb partly on the footway which passes along the east side of the road in front of the appeal site.
7. The appeal site is a semi-detached dwelling and its semi pair is no.13 to its south. The dwellings along the east side of the road generally have raised front gardens covered in grass or grass and planting, a retaining wall next to the footway and steps up to the front doors of the dwellings. These raised, often green, front gardens provide character and relief from an otherwise reasonably intensively built-up urban environment.
8. The proposal seeks permission for the installation of a vehicle hardstanding which would provide space for one parked vehicle, and a crossover/dropped kerb to facilitate the on-site parking. The hardstanding would be created by cutting into the existing raised soft landscaping in the front curtilage of no.11 so that the space is level with the existing public highway. As a result the hardstanding would sit about 0.85m below the boundary wall and about 1.13m below the soft landscaping of the front curtilage.

9. The streetscene frontage to properties as one looks along the east side of Windward Road is characterised by raised soft landscaped boundaries, by boundary walling punctuated by steps, that all contribute positively to the appearance of the road. I consider that the proposed development would result in a very engineered and hardened appearance to the road, harming the elevated soft landscaped garden area. I consider this would be particularly detrimental given that, as I have already said above, there is an intensively built up environment which the greenery relieves.
10. On this issue, I conclude that there would be harm to the character and appearance of the host dwelling and wider streetscene. The proposal would be contrary to policy BNE1 of the Medway Local Plan (adopted 2003) and the NPPF.

Highway and pedestrian safety

11. Taking into account the amended drawing, the proposed dimensions of the hardstanding in the proposal location, accord with Highway Authority advice in its "Application Guidance and Self Assessment" (dated April 2024). There is concern that adequate pedestrian visibility splays may not be achievable. However, on the evidence before me, I am satisfied that adequate pedestrian visibility splays could be achieved, in particular if side walls of the hardstanding were slightly lower where they meet the footway. I consider this can be overcome by a condition to the effect that "Notwithstanding the approved plans, the development hereby permitted shall be provided so as to permit pedestrian visibility splays of 2.0m by 2.0m at the junction of the driveway and the adjacent footway from their point of intersection. The areas within these splays shall be kept permanently free of all obstructions to visibility over a height of 0.6m above carriageway level."
12. In this particular case where there is no legal parking on the east side of Windward Road, I do not consider it necessary to see swept path tracking to be content that there is enough space to get in and out of the proposed hardstanding.
13. There would not be a loss of an on-street parking space as there is no legal parking on the east side of Windward Road. At this point in time when the occupant of the appeal site has a vehicle, there is a benefit to on-street parking numbers because that vehicle could thereafter park on-site.
14. On this issue, I conclude that subject to the imposition of appropriate conditions, the proposal would not result in unsafe conditions of highway users or pedestrians. The proposal would not be contrary to policy T1 or T2 of the Medway Local Plan (adopted 2003) or the NPPF.

Balancing Factors

15. Whilst I have not identified harm to highway or pedestrian safety from the proposal, I have identified that it would result in harm to the character and appearance of the host dwelling and wider streetscene. I need, therefore, to balance that harm against any relevant claimed disbenefits of refusing planning permission in this case. The appellant has indicated that there are particular personal circumstances relating to a child resident at the appeal site who has a serious medical condition. I have been provided with redacted independent medical evidence relating to that child. Of particular relevance, is that the medical condition is one which affects the windpipe making it difficult to breathe

and walk. It is also a life-long condition and a minor is, in this case, affected. I am mindful of the fact that this planning permission would permit permanent development which I have found would cause some planning harm and I have to bear in mind that the current householders may not reside at the appeal site indefinitely. Thus, the harm may continue long after the personal circumstances which justify it no longer pertain to the site. Notwithstanding that, I have come to the view that the benefits of the proposed development for the child should be given substantial weight. Those benefits outweigh the disbenefit of harm to the character and appearance of the host dwelling and wider streetscene. I emphasise that I have made this planning judgment based on the specific and uncommon circumstances of this case and on the quality of the evidence I have before me. The circumstances are unlikely to arise again and a precedent for allowing crossovers in this area is not being set.

16. Overall, I find that the benefits of allowing the development outweigh the disbenefits.

Conditions

17. The Council suggested some conditions in the event that the appeal was successful and I have considered those in the light of advice in National Planning Practice Guidance. In order to ensure that surface water drains acceptably from the hardstanding I have imposed a condition requiring the hardstanding be formed from permeable surfacing materials or provided with drainage arrangements. In order to avoid uncertainty, I have tied the development to the submitted drawings. To protect pedestrian safety there is a condition securing appropriate visibility splays, and to protect the character and appearance of the area a condition securing the use of appropriate materials is imposed.

Overall Conclusion

18. Having considered all relevant representations, for the reasons given above, I allow the appeal subject to conditions.

Megan Thomas K.C.

INSPECTOR