



Appeal Decision

Site visit made on 11 September 2024

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2024

Appeal Ref: APP/V2255/W/24/3341411

Land rear of 17 Station Street, Sittingbourne ME10 3DU

- 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 Mr Naith Hanchard of Project Halo Ltd against the decision of Swale Borough Council.
 - The application Ref is 23/505202/FULL.
 - The development proposed is the erection of a building to comprise of 4 x 1 bed apartments with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised by this appeal are the effect of the proposed development on the living conditions of existing neighbouring and future occupiers and the Swale Special Protection Area (Swale SPA).

Reasons

Living Conditions

3. Kember Place is to the south of the proposed development. The proposed building would project some distance beyond the rear building line of the existing adjacent building, Kember Place, although the proposal would include a setback in projection next to Kember Place. Notwithstanding this, the proposed development would create a substantial bulk of built development in very close proximity to the upper storeys of Kember Place which hosts windows that serve habitable living space. The projection, although chamfered, would cause overshadowing of Kember Place. A development of the projection and height proposed, in such close proximity to the adjoining property and its rear windows, would diminish the enjoyment of the adjacent residential living environment that the existing occupiers should reasonably expect to enjoy.
4. I saw that 17 Station Street is sited at a lower ground level to that of the appeal site. I acknowledge that 17 Station Street has been unoccupied. However, the Council has advised that this property has recently been converted to residential use.
5. The proposal would have outlook at the rear over four storeys. These would directly face onto the rear elevation of 17 Station Street that has windows in the rear elevation as well as its outrigger. There would be separation between

the respective developments. Nonetheless, mutual observation would occur in respect of outlook from both these buildings. The space between developments would not be sufficient to prevent observation from taking place. As such, loss of privacy would occur. This would be harmful to the living conditions the occupiers of each respective property should reasonably expect to enjoy.

6. I accept that there may be examples of other similar relationships between existing development with mutual overlooking in the locality. Whilst this may be so, this does not justify further development where harm would occur.
7. For these reasons, I conclude that the proposed development would be harmful to the living conditions of existing neighbouring occupiers and future occupiers of the proposed development. The proposal would, therefore conflict with Policies DM14 and CP4 of the Bearing Fruits 2031: The Swale Borough Local Plan 2017. These policies seek, amongst other matters, development to cause no significant harm to amenity. Whilst the criteria of policy CP4 does not specifically refer to protecting residential amenity it requires proposals to be of a high quality design that are appropriate to its surroundings. I have found that this would not be the case here.

Swale SPA

8. The proposed development would have a negative impact upon the Swale SPA and a financial contribution is required to mitigate the potential adverse effects resulting from the development. I acknowledge the appellant's willingness to draft an agreement to address this matter. Notwithstanding this, had I considered the development to be acceptable in all other respects, I would have sought to undertake an Appropriate Assessment. However, given that I am dismissing this appeal for other reasons it has not been necessary for me to consider this matter in any further detail.

Other Matters

9. The appellant highlights that the Council does not have a five-year housing land supply of deliverable housing sites in place. The proposal would boost the supply of housing and could provide high quality homes. However, even if the housing shortfall is substantial, the benefits associated with four dwellings would be relatively small. Also any economic benefits during construction would be temporary and limited.
10. The adverse impact of the proposed development on the living conditions of existing adjoining and future occupiers attracts substantial weight and therefore significantly and demonstrably outweighs the benefits when assessed against the policies of the National Planning Policy Framework when taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

11. Having regard to the above findings, the appeal should be dismissed.

Nicola Davies

INSPECTOR