



The Planning Inspectorate

Appeal Decision

Site visit made on 15 May 2018

by **N A Holdsworth MCD MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 14 June 2018

Appeal Ref: APP/V2255/W/17/3189784
76 Alexandra Road, Sheerness, ME12 2AT

- 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 D Noyes against the decision of Swale Borough Council.
 - The application Ref 17/501447/FULL, dated 23 March 2017, was refused by notice dated 30 May 2017
 - The development proposed is conversion of existing 3-bedroom terraced property into 2 no. 2-bedroom self-contained flats
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Following its refusal of planning permission the Council have adopted the *Bearing Fruits 2031: The Swale Borough Local Plan (Adopted July 2017)* ("Local Plan"). The policies referred to in the *Swale Borough Local Plan (Adopted February 2008)* are no longer part of the development plan, and have no weight. I have dealt with the appeal accordingly. In the course of the appeal, the appellant has had the opportunity of commenting on the recently adopted Local Plan policies identified by the Council as being relevant to this decision.

Main Issues

3. The main issues in the appeal are:
 - Whether sufficient measures are provided to protect future inhabitants of the development in the event of a flood; and
 - Whether the layout and room sizes associated with the new residential accommodation provide satisfactory living conditions for future occupants.

Reasons

Flood Risk

4. The parties agree that the site is located in Flood Zone 3. The appellant argues that there are sea defences which make flooding very unlikely, maintaining that the road has not flooded since 1953. However the Environment Agency (EA) advise that there remains a risk of tidal flooding to the property. Given the remit of the EA, I attach significant weight to their advice, in this regard.

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5. The proposed development provides a self-contained residential unit at ground floor level, including sleeping accommodation. I consider that future occupants of the ground floor unit would be at significant risk, in the event of a flood. There would be no guaranteed access to the upper floors of the building as it would comprise a separate residential unit. The rear garden would be unlikely to be a safe place, as it is also at ground floor level.
6. The appellant suggests that flood gates could be installed to the front of the property, and flood resilient materials could be implemented during renovation works. However, no Flood Risk Assessment is provided and I have no technical evidence before me to demonstrate that such measures would be effective at managing the risk to life in the event of a flood. Whilst there is a flood warning system in place, this would not eliminate all risk associated with tidal flooding.
7. The evidence before me indicates that there are a number of properties on Alexandra Road and other roads in the surrounding area which comprise residential accommodation at ground floor level. I accept that the Council may have previously granted planning permission in some of the other examples cited without a Flood Risk Assessment. However, this does not justify acceptance of further development that would create its own risks. The current planning policy framework emphasises a precautionary approach, where planning permission for new development is required.
8. These considerations lead me to the view that the development would fail to provide sufficient measures to protect future inhabitants of the development in the event of a flood. The proposed development therefore conflicts with policy DM 14 and DM 21 of the Local Plan and the relevant parts of the National Planning Policy Framework ("the Framework") which, amongst other things, require that inappropriate development in areas at risk of flooding is avoided.

Living Conditions

9. The Council argue that the ground floor accommodation would fail to meet the internal space standards set out in Supplementary Planning Guidance entitled *The Conversion of Buildings into Flats & Houses in Multiple Occupation* ("Building Conversion SPG"). This requires that, in the case of a 3 person, 2 bedroom flat 40 sqm of habitable floorspace is provided. The Council maintain that the ground floor unit would provide around 37 sqm of such floorspace, thus departing slightly from this guidance.
10. However, the copy of the Building Conversion SPG provided by the Council is dated February 2011. It predates the publication of the *Technical housing standards – nationally described space standard* in 2015. Planning Practice Guidance¹ states that, where a local planning authority wishes to require an internal space standard, they should only do so by reference to the nationally described space standard. The Council have not identified a planning policy which enacts the relevant national standard.
11. In this case, the ground floor flat would have access to external amenity space, in the form of a garden. This compensates for the limited amount of internal space within the flat. A good degree of natural light and outlook to each of the rooms at ground floor level would be provided. None of these rooms would, to my mind, appear unacceptably cramped.

¹ Reference: Paragraph: 018 Reference ID: 56-018-20150327

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12. Consequently, I find that the layout and room sizes would provide satisfactory living conditions for its future occupants. Whilst the proposal would depart slightly from the internal space standards set out in the Building Conversions SPG, having regard to Planning Practice Guidance I give these standards little weight. Overall, the proposal would comply with policy DM14 of the Local Plan which requires that, amongst other things, development does not cause significant harm to amenity.

Other Matters

13. The appellant argues that the development would bring the property back in to use, making effective use of previously developed land and enhancing the surrounding residential environment. I do not dispute that this would be the case, however these considerations do not outweigh the harm identified in the first main issue.

14. The Council advise that the site is located approximately 4.8km north-east of the Swale Special Protection Area ("SPA") and Ramsar Site, and 1.9km east of Medway Estuary and Marshes SPA. I note that the officer report suggests that the proposal could lead to bird disturbance within these protected areas and that off-site mitigation is required, although none is provided. As the appeal is failing for other reasons, I have not pursued this matter further.

Conclusion

15. I have found that the proposed layout and room sizes associated with the new residential accommodation would provide satisfactory living conditions for future occupants. However, the proposal would fail to ensure sufficient measures are provided to protect future inhabitants of the development in the event of a flood and conflicts with development plan policies, in this regard. There are no other considerations that outweigh the harm identified. For the reasons given above and having had regard to all other matters raised, I conclude that the appeal shall be dismissed.

Neil Holdsworth

INSPECTOR