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## Appeal Decision

Site visit made on 30 August 2016

**by Cullum J A Parker BA(Hons) MA MRTPI IHBC**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 1 September 2016**

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**Appeal Ref: APP/V2255/D/16/3151559**  
**16 Stiles Close, Minster-on-Sea, Kent, ME12 2TQ**

- 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 D Price against the decision of Swale Borough Council.
  - The application Ref 15/503342/FULL, dated 14 April 2015, was refused by notice dated 4 April 2016.
  - The development proposed is to demolish existing garage and construct two storey side extension.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and construction of two storey side extension and single storey rear extension at 16 Stiles Close, Minster-on-Sea, Kent, ME12 2TQ in accordance with the terms of the application, Ref 15/503342/FULL, dated 14 April 2015, subject to the conditions set out in Appendix A.

### Preliminary Matters

2. The appeal scheme has been amended since its original submission to the Council. I understand that it is drawing 002 stamped 'amended' and dated 10 April 2015 for which permission is sought, and have proceeded on this basis.
3. The description in the above header derives from the original planning application form. It is clear that since the original application was submitted, the scheme has been amended. For example a single storey front extension has now been omitted, but a single storey rear extension added. The description on the decision notice appears to reflect these later changes. For the avoidance of doubt, I have adopted its usage to describe what permission has been granted for in this case.

4. As notified prior to my site inspection, I undertook an access required site visit from 08:00 onwards. I viewed the appeal site from within the site, from the street scene, and also from No 15 Stiles Close and Nos 10 and 12 Appleford Drive. I was unable to gain access to No 14 Appleford Drive. However, I am content I was able to see what I needed to make an informed decision from the above viewpoints.

### **Main Issues**

5. The main issues are;
  - The effect of the proposed development on the character and appearance of the street scene, and;
  - The effect of the proposed development on the living conditions of neighbouring occupiers with specific regard to outlook and overshadowing.

### **Reasons**

#### *Character and appearance*

6. The appeal site comprises a two storey detached house, located within a residential cul-de-sac in the built-up area of Minster-on-Sea. The immediate street scene is characterised by properties of a similar design and size, with the area appearing as a planned estate layout. To the west lies Appleford Drive, the gardens of Nos 10 and 12 of which I was able to see directly about the appeal site. Within the street scene it is possible to see other alterations to buildings, for example conservatories.
7. The appeal scheme seeks the erection of a two storey side extension on the western side of No 16 Stiles Close, together with a single storey rear extension element, as shown on drawing 002 (Stamped Amended by the Council), dated 10 April 2015.
8. The appeal site lies at an angle to Stiles Close. This means that any development on the western flank of No 16 would be visible when entering the Close. However, the two storey extension would be of a traditional design, and would utilise matching materials so as to ensure visual conformity with the main dwelling. What is more, the proposed extension would be set back from the prominent projecting gable at No 16, and thus help maintain its noticeable and important architectural status within the front façade of the building. The strong and prominent sloping gable end is a key feature of other dwellings within the Close.
9. I note the comment made in respect of the minimalist nature of the proposed flank elevation, with only a window at ground floor level. However, windows in this elevation have been purposely kept to a minimum in order to reduce the potential for overlooking towards the gardens of properties facing Appleford Drive. It may be possible to use some form of decorative brickwork or relief to reduce the blandness of a blank side wall when viewed from the private gardens of Appleford Drive. However, to control such matters by planning condition would be onerous. In any case, the degree of any harm arising in terms of the appearance of the flank wall would not be materially harmful given that the wall would not be dissimilar to others in the locality. These findings echo those of the Planning Officer in their report to the Planning Committee.

10. The rear extension proposed would be of a typical appearance and size, in terms of height and depth, for a residential property. Furthermore, views of it would be restrained by its rear of site location and the surrounding forms of boundary treatments. I do not find that this element of the scheme would be harmful to the street scene.
  
11. I therefore conclude that the proposed development would not result in material harm to the character and appearance of the street scene. Accordingly, the proposal would accord with Policies E1, E19 and E24 of the *Swale Borough Local Plan 2008* (SBLP), which, amongst other aims, seek to protect and enhance the built environment, reinforce local distinctiveness and ensure that alterations and extensions are of high quality design.

#### *Living conditions*

12. The appeal site is located to the east of properties facing Appleford Drive. The proposed extension would be situated about 11 metres or so from the rear elevations of these dwellings. The Committee report indicates that typically a distance of at least 11 metres is sought. Design codes, or other such guidance, should avoid unnecessary prescription or detail and should instead guide development. Nevertheless, a gap of at least 11 metres between the proposed flank wall and the rear of adjoining properties would assist in ensuring that the two storey extension element does not visually dominate outlook. Indeed, I saw that whilst the two storey extension would bring the footprint of No 16 closer to the rear gardens, the gardens themselves would retain their fairly open outlook.
  
13. In terms of overshadowing, it is almost inevitable that the proposal would lead to some loss of direct light in the gardens of properties facing Appleford Drive. However, the modest gardens serving those dwellings are situated on a roughly north-east to south-east axis. What this would mean is that even with the proposed extensions, the garden areas of these adjoining dwellings would still maintain a high level of sun and day light into their rear gardens and rear windows for a majority of the day, including the morning, afternoon and early evening. I am supported in this assessment by the fact that I saw the sun clearly in the gardens of Nos 10 and 12 Appleford Drive when undertaking my site inspection and could see that even with a two storey extension, the sun in that location at that time of day would still be visible from the patio of No 12 for example.
  
14. I therefore conclude that the proposed development would not result in material harm in respect of the living conditions of neighbouring occupiers with specific regard to outlook and overshadowing. Accordingly, the proposal would accord with Policies E1, E19 and E24 of the SBLP, which, amongst other aims, seek to protect residential amenity.

#### **Other Matters**

15. A number of concerns have been raised by the Parish Council and local residents. I now consider these before coming to an overall conclusion. In terms of parking provision, the proposed drawing shows that off street parking can be provided for two vehicles. The Council's report explains that this would be in accordance with the Kent County Council Vehicle Parking Standards, as set out in Interim Guidance Note 3, which sets out that for a suburban area,

2 spaces is the minimum requirement for a 4+ bedroom dwelling. There also does not appear to have been any objections from the local highways authority. With no evidence to the contrary, I see no reason to disagree with the local planning authority's assessment that the parking provision would be sufficient in this case.

16. In terms of vermin infestation, access onto adjoining properties, health issues from dust, and health and safety concerns from things such as falling nails; these are matters typically subject to other regulatory controls or are private matters between other parties. I have not considered them further and they do not weigh within any planning balance.
17. In terms of flood risk, the site lies within Flood Risk Zone 3. However, conditions can be used to ensure resilience measures are used so as to mitigate and reduce any harm to life or property arising from any flood related incidents. What is more, such flood risk is unlikely to significantly increase from the erection of a two storey extension to a residential property when taking into account the size and nature of the wider Flood Zone.
18. Concerns raised in respect of the circulation of the committee report prior to the meeting, the provision of pre-application advice and how the Council conducted itself prior to the appeal are beyond the remit of a Section 78 appeal. I have not considered this matter further, and instead have concentrated on the planning merits of the proposal.
19. I do not, therefore, find that these other matters raised, whether individually or in combination, justify the dismissal of the appeal scheme.

### **Conditions**

20. A number of conditions are suggested in the Council's Committee report. I have considered these in light of Paragraph 206 of the Framework and the Planning Practice Guidance in respect of the use of planning conditions.
21. A condition requiring the use of matching materials is necessary to protect the character and appearance of the street scene. A condition requiring that no openings be placed in the proposed flank wall is reasonable given that such insertions may result in unacceptable levels of overlooking. The suggested condition relating to the retention of the parking spaces is not reasonable given that part of the area is already used for such purposes.
22. Conditions requiring finished floor levels to be no lower than existing and that details of flood resilience measures are submitted to the local planning authority are reasonable and necessary so as to reduce the potential risk to life or property within an area identified as Flood Zone 3. However, the latter condition should have a requirement that it is implemented in order for it to achieve its aim.
23. Lastly, although not suggested by the Council, given the location of the appeal site within a residential area, a condition restricting hours of building works and deliveries is reasonable in this case, so as to reduce the impact of these activities on neighbouring occupiers.

### **Conclusion**

24. For the reasons given above, and having taken into account all matters raised,

I conclude that the appeal should be allowed.

*Cullum J A Parker*

INSPECTOR

## **Appendix A – List of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 002 (labelled amended) dated 10 April 2015.
- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows/doors/voids or any other openings, other than those expressly authorised by this permission, shall be constructed on the proposed elevation facing the rear gardens of Appleford Drive.
- 4) The finished floor level of the development hereby approved shall not be set lower than that of the existing dwelling.
- 5) No development shall take place (including demolition works) until details of flood resistance and resilience measures to be incorporated in the development have been submitted to and approved in writing by the local planning authority. Thereafter, such details shall be implemented as approved.
- 6) Demolition or construction works (including deliveries of materials) shall take place only between 08:00 to 18:00 on Mondays to Friday, and between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.