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## Appeal Decision

Site visit made on 22 August 2018

by H Miles BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

**Decision date: 3<sup>rd</sup> October 2018**

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**Appeal Ref: APP/V2255/W/18/3203199**

**17 to 20 Arthur Street, Sittingbourne, Kent ME10 1BA**

- 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 Jan Harding against the decision of Swale Borough Council.
  - The application Ref 18/500381/FULL, dated 19 January 2018, was refused by notice dated 22 March 2018.
  - The development proposed is a ground floor flat (one bedroom) and first floor flat (two bedroom) on land Adj to 17-20 Arthur Street, Sittingbourne.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework) has been published. I have invited both main parties to submit comments on the relevance of the revised Framework to this case. I have taken any comments received into consideration and I have assessed this appeal in light of the revised Framework.
3. The Council's reason for refusal refers to dwellings under construction opposite the appeal site fronting Arthur Street (annotated as dwelling A and B on the submitted plans, and referred to by these letters in this decision). I observed that these properties are now complete.

### Main Issues

4. The main issues are: the effect of the proposed development on the living conditions of neighbouring occupiers, in particular dwellings A and B Arthur Street and 19 Arthur Street; and the quality of living conditions for future occupiers in terms of their outlook.

### Reasons

#### *Living Conditions – dwellings A and B Arthur Street*

5. Two houses are situated opposite the appeal site. They are orientated on a diagonal and the closest property to the appeal site (dwelling A) is surrounded by a garden to the side and rear which is enclosed along this boundary by a close board fence. Dwelling B is adjacent and has its main garden to the rear.
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6. As the garden area of dwelling A extends along the majority of the side boundary it is already overlooked to some extent by the upper floor windows of 17-20 Arthur Street. Therefore the proposed first floor window would not create any new views towards this garden. As such I do not consider that the single additional bedroom window proposed at first floor would give rise to such increased overlooking that it would be significantly harmful to the occupiers of this property. Views towards this garden from ground floor windows would be screened by the existing boundary treatment.
7. Due to its distance further from the proposed dwellings, the effect of any overlooking on dwelling B would be reduced compared with dwelling A. Whilst the proposed first floor window would result in a slightly different angle of view towards the garden of dwelling B than currently exists, I do not find that there would be a harmful level of overlooking to dwelling B.
8. For the reasons above I do not consider that the proposed development would result in a significantly harmful effect on the living conditions of neighbouring occupiers of dwellings A and B in terms of overlooking. Therefore, in this respect, the proposal would not be contrary to policy DM14 of Bearing Fruits 2031 - the Swale Borough Local Plan (2017) (the Local Plan) which requires that development will cause no significant harm to amenity.

*Living Conditions – 19 Arthur Street*

9. The proposed development is shown as extending around 2.7m beyond the rear elevation of the adjoining flats at two storeys in height. The ground floor window at 19 Arthur Street which would be closest to the proposed development serves the living room.
10. This two storey volume directly adjoining the boundary would result in a large bulk and mass very close to this window. The combination of the height and depth in such proximity would result in an overbearing impact on the outlook from these windows and would have a harmful effect on the living conditions of the occupiers of this property for this reason.
11. Evidence is submitted which shows an existing fence close to the ground floor rear windows resulting in a relatively limited existing outlook to the rear. Given this situation, the outlook that does remain would be particularly important to the living conditions of the occupiers and any encroachment onto this would be felt even more keenly.
12. The rear windows at 19 Arthur Street face broadly northwards and the proposed building would be situated along the western boundary. Additionally, adjoining the appeal site is the mass of Hawthorn House which would limit light to these windows from the west in the existing situation. Therefore, due to the orientation and the existing built form the proposed building is unlikely to restrict any light to these windows over and above the existing situation.
13. I am also pointed to the fact that the windows at 19 Arthur Street are wide, however this would not overcome the concerns relative to outlook raised above.
14. For the reasons above I find that the proposed development would have a harmful effect on the living conditions of the neighbouring occupiers which would be contrary to Local Plan policies, in particular Policy DM14 which states that development proposals should cause no significant harm to amenity.

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#### *Living Conditions – future occupiers*

15. The side elevation of Hawthorn House is adjacent to the proposed flats. The proposal shows a small gap on both sides of this shared boundary which would provide some separation between the existing and proposed buildings.
16. Both of the proposed flats would have a rear outlook and aspect from their kitchen/living/dining rooms. Whilst it is likely that Hawthorn House would be visible in the periphery of one side of this outlook, due to its distance from the window and the angle of view in which it would be visible, it would not infringe on the proposed flats' main rear aspect. Therefore, as any impact would be likely to be limited, I do not find that Hawthorn House would have a significantly overbearing nor oppressive effect on the living conditions of future occupiers of the proposed units.
17. For the reasons above, I conclude that the proposed development would provide acceptable living conditions for future occupiers and in this respect would not be contrary to the aims of Policies ST1 which aims to deliver sustainable development, CP3 which seeks sustainable and high quality designed homes, CP4 which requires good design in development proposals, and DM14 which states that development proposals should cause no significant harm to amenity, of the Local Plan.

#### **Other Matters**

18. I note the LPA's position that due to the site's position within 6km of the Medway Estuary and Marshes Special Protection Areas and Swale Special Protection Area the proposal has potential to affect these sites' features of interest. However given my conclusions in respect of the main issues, it is not necessary to pursue this matter further in this case.
19. I am aware that directly adjoining neighbouring occupiers have not objected, and that letters of support have been received (I am also mindful of the objection that has been received). I have considered these representations in my deliberations.
20. I appreciate that the development would reduce the potential for fly tipping and that it would improve the appearance at this end of the development. It would also make good use of an area of vacant land through the provision of two new flats, and would contribute to the local housing stock. Furthermore the scheme would be provided with adequate parking and amenity space to meet the needs of the future occupiers.

#### **Conclusion**

21. Whilst I do not find harm in relation to living conditions of future occupiers or those in dwellings A and B and there are some benefits as detailed in the above paragraph, this does not outweigh my finding in respect of the unacceptability of the scheme's effect on the living conditions of the occupiers of 19 Arthur Street.
22. For the reasons above, this appeal is dismissed.

*H Miles*

INSPECTOR

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