



Appeal Decision

Site visit made on 18 December 2018

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 11 February 2019

Appeal Ref: APP/V2255/W/18/3207600

Land adjacent to 1 Seaview Mews, Grove Avenue, Leysdown ME12 4EA

- 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 Cadwell Services Ltd against the decision of Swale Borough Council.
 - The application Ref 18/500514, dated 25 January 2018, was refused by notice dated 16 March 2018.
 - The development proposed is a three bedroom detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the application was determined the revised National Planning Policy Framework (the Framework) has been published. The main parties have been given the opportunity to comment on the implications of the revised Framework for this case.

Main Issue

3. The main issue is whether the proposal would provide adequate living conditions for future occupiers in respect of outlook and sunlight.

Reasons

4. The proposed dwelling would be set forward of 1 Seaview Mews, with the result that the side boundary of its rear garden would be enclosed by the existing three storey side elevation of No 1. The garden would have a relatively open aspect to the other side and rear, and the proposed single storey element would screen some of the lower part of the flank wall. However, due to its height, depth and proximity, the flank wall would be overbearing, creating a sense of enclosure and dominating the outlook from the rear garden.
5. The proposed dining room would have its main aspect to the open side of the plot through the proposed French windows, although the flank elevation of No 1 would be visible from the proposed rear window. The only outlook from the rear bedroom, being set further forward, would be enclosed by the dominating expanse of the flank elevation. Although I note that the proposed dwelling has been sited to allow a relatively generous gap to the side boundary with No 1 which widens to the rear, due to the height and depth of the adjacent flank wall

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this would not be sufficient to overcome the effect on the outlook from the rear bedroom.

6. Due to the orientation and siting of the proposed dwelling in the plot, the house and garden would be overshadowed in the latter part of the day by No 1. The height, depth and proximity of the neighbouring building would mean that much of the rear garden would be affected, as well as the rear habitable rooms. While I recognise that the proposed dwelling would benefit from its seaside location and front balcony, and future occupiers would be aware of its limitations, this does not override the need to ensure that it would have adequate living conditions, as required by the development plan.
7. My attention has been drawn to the staggered arrangement of the rear elevations of 8 and 9 Seaview Mews. However, this is not directly comparable with the appeal case, as only a relatively short section of the side boundary of No 8 is enclosed by No 9, with most of it being open and unaffected by its neighbour in terms of outlook and sunlight. I have therefore considered the proposal on its own merits and the example cited does not outweigh my concerns.
8. I therefore conclude that the proposed development would not provide adequate living conditions for future occupiers in respect of outlook and sunlight. It would thus be in conflict with Policies DM14 and CP4 of the Swale Borough Local Plan 2017, insofar as they seek to ensure that development is not harmful to amenity and is of a high quality design that is appropriate to its surroundings, creating comfortable places.

Other Matters

9. I recognise the benefits of the proposal, including that it would provide an energy efficient house, making use of a vacant site in a sustainable location, which would be deliverable and contribute to the Borough's housing supply, but these considerations do not outweigh the harm I have identified in relation to the main issue.
10. I have had regard to the site's location in relation to a European designated site afforded protection under the Conservation of Habitats and Species Regulations 2010 as amended. Although not identified as a formal reason for refusal, the Council has stated that mitigation is required in the form of a financial contribution.
11. I understand that the appellant has made a financial contribution to the Council towards the mitigation measures. However, as any consideration of that matter would not affect my finding on the main issue, and the appeal would in any case be dismissed, it is not necessary for me to address that objection any further as part of this decision.

Conclusion

12. For the reasons given above and taking into account all matters raised I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR