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## Appeal Decision

Site visit made on 1 November 2017

by **N A Holdsworth MCD MRTPI**

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

Decision date: **4<sup>th</sup> January 2018**

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**Appeal Ref: APP/V2255/W/17/3180827**

**31A St Georges Avenue, Sheerness, ME12 1QX**

- 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 Gail of Millennium Property Developments Limited against the decision of Swale Borough Council.
  - The application Ref 17/500531/FULL, dated 31 January 2017, was refused by notice dated 21 April 2017
  - The development proposed is construction of a single live/work unit with work-space on ground floor and residential accommodation on upper 2 floors.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in the appeal are the effect of the proposed development on:
  - The living conditions of occupiers of existing residential buildings, with particular regard to whether the development would result in an overbearing effect on No.31 St Georges Avenue;
  - The living conditions of occupiers of existing residential buildings, with particular regard to whether the development would result in an unacceptable loss of privacy to No.31A St Georges Avenue; and
  - The character and appearance of the area.

### Procedural Matters

3. Following the decision the Council have adopted the Swale Borough Local Plan 'Bearing Fruits' 2031. In consequence, policies CP4 and DM14 of the Swale Local Plan 'Bearing Fruits' are now part of the development plan and can be given full weight in the decision. Policies E1 and E19 of the Swale Borough Local Plan 2008 are no longer part of the development plan and have no weight in the decision. I have dealt with the appeal accordingly.

### Reasons

#### *Overbearing effect*

4. The proposed three storey building would be constructed immediately adjacent to the boundary of the rear garden of 31 St Georges Avenue. Because of its

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substantial height and bulk, it would appear intrusive and overbearing in views from this area. It would enclose the rear part of the neighbouring garden and would significantly diminish the outlook from this area, creating a visually dominant feature.

5. Because of its bulk, height and location, the proposed building would also obstruct the path of the sun, resulting in overshadowing of the neighbouring garden. The appellant provides evidence that the overshadowing would comply with standards set out in the Building Research Establishment guidance "*Site layout planning for daylight and sunlight: a guide to good practice*", with the additional overshadowing occurring in the mid-afternoon, roughly between 1pm and 3pm. However, technical compliance with these guidelines in respect of overshadowing would not overcome the poor visual relationship between the two properties, and the harm that arises from the resultant overbearing effect on No.31.
6. In coming to this view I have taken into account that much of the boundary between 31 and 31A would remain unaltered, and part of the building would be recessed away from the boundary wall. However, these facts do not mitigate the harm identified above.
7. Consequently, because of its height, bulk and close proximity to the common boundary, the proposed development would result in an overbearing effect that would lead to significant and unacceptable harm to the living conditions of occupiers of No 31. The proposed development would therefore conflict with Policy DM14 of the Swale Local Plan 2017 ("Local Plan") which requires that, amongst other things, new development is of a scale that is sympathetic to its location, and does not result in significant harm to the amenity of occupiers of surrounding buildings.

#### *Overlooking*

8. The proposed building would be located around 14 metres away from the rear elevation of 31A St Georges Road. The Council express concern that the first floor windows on the proposed building would overlook windows in the rear elevation of No.31A that are not currently directly overlooked. Whilst the separation distance would be similar to that found between other buildings in the surrounding area, new development must take the opportunities available to improve the quality of an area and the way it functions.
9. To mitigate the effects of this overlooking the appellant has proposed at appeal stage that a privacy screen is installed that would deflect views away from the first floor living room window. I agree this would be necessary to provide for a degree of outlook from the proposed building whilst protecting the privacy of neighbouring residents. Further details of its design, and the use of obscure glass on the relevant parts of the building could be required by planning condition, which could also secure its retention. Subject to the imposition of these conditions, the proposed development would not result in harm to the living conditions of No 31A through loss of privacy. There is no conflict with policy DM14 of the Local Plan which requires that new development does not result in significant harm to the amenity of occupiers of surrounding buildings.

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*Character and appearance*

10. The proposed building would face Granville Road. Whilst many of the buildings in the surrounding area are two storeys in height and have a relatively uniform appearance, this is not true of the area immediately to the north west of the site facing Granville Road. The proposed building would be located within the setting of a number of industrial buildings and isolated residential dwellings. I observed that the closest neighbouring property on Granville Road has the appearance of an industrial building with a corrugated metal roof.
11. Within this context the proposed building would have a striking, contemporary appearance. National planning policy advises that planning decisions should not stifle innovation, originality or initiative. The apparent irregularity of the fenestration would not depart from any prevailing pattern of development on this side of Granville Road. For the same reason the use of timber cladding, the shallow roof pitch and extent of glazing on the front elevation would not result in any significant harm given the varied appearance of buildings along Granville Road to the north west of the site. The proposed metal roof would reflect materials evident on industrial buildings in the surrounding area.
12. As such, whilst the design of the building departs from the appearance and fenestration of the buildings on St Georges Avenue and the other side of Granville Road, such a departure would be justified given its immediate townscape context. In consequence, there would be no harm to the character and appearance of the area. There is no conflict with policy CP4 of the Swale Local Plan which requires development proposals to be of a high quality design that is appropriate to its surroundings.

*Other Matters and conclusion*

13. The proposed development would provide a new dwelling that would fulfil a housing demand. It addresses the constraints of the site due to flood risk by raising the residential accommodation and providing commercial space at ground floor level. The design is innovative and the standard of residential accommodation provided is good, and I have found that there would be no harm to the character and appearance of the area. Furthermore, any overlooking could be mitigated through measures including the construction of a privacy screen, which could be secured by planning condition. However, these considerations do not, even cumulatively, outweigh the harm that would arise to the living conditions of the occupants of No 31 due to the overbearing effect the proposed building would have on their garden area.
14. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

*Neil Holdsworth*

INSPECTOR