
Appeal Decision

Site visit made on 8 November 2016

by Nicola Davies BA DipTP MRTPI

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

Decision date: 22 November 2016

Appeal Ref: APP/U2235/W/16/3154948

Land to the rear of 1-3 Tovil Green, Maidstone ME15 6TB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr D Marks of DaVinci against Maidstone Borough Council.
 - The application Ref 16/503151/FULL, is dated 11 April 2016.
 - The development proposed is described as the "erection of 3 houses and associated car parking on former gardens adjacent to Bridge Mews".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal has been lodged following the Council's failure to determine the application within the statutory period. The Council in their appeal statement has put forward reasons for refusal had they been in a position to determine the application. The Council considers that the proposal would be cramped and not be of sufficiently high quality and the scheme would have an unacceptable effect upon the outlook of the occupiers of No 1 Tovil Green and would be oppressive to their living environment.
 3. The site address provided on the application form has been replaced by a more accurate address in subsequent documents. I consider this to correctly reflect the location of the site and have thus employed it here.
 4. Both parties agree that the appeal should be heard on the basis of the proposed scheme as shown on drawings 16-13-11A, 12 and 13 which the Council confirms have been subject to full consultation. The appellant has put forward revised drawings 16-13-12A and 13A which illustrate minor alterations to the window positions on the road frontage elevation. These alterations do not significantly change the proposal and, as such, the plans would not, in my view, prejudice the interests of third parties. For this reason I have had regard to these plans.
 5. The appellant has put forward further amended plans, reference 16-13-20, 21 & 22 and asked for these to form the consideration of this appeal. These plans show a proposed development of different plot siting, terrace positioning, parking arrangement and separation distance to Nos 1-3 Tovil Green. The appellant has indicated that these amended plans have been produced to address the Council concerns, however the Council point out that these plans
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have not been subject to public consultation. If I determined the appeal on the basis of these amended plans it is possible that the interests of parties who might wish to comment would be prejudiced. For this reason I have not had regard to these plans.

Main Issues

6. The main issues raised in respect of the appeal are the effect of the development on: -
 - (a) The character and appearance of the area; and
 - (b) The living conditions of adjoining occupiers.

Reasons

The character and appearance of the area

7. The surrounding area is residential in character comprising two and three-storey terraced houses, flat developments and parking courtyards. The appeal site relates to the rearmost part of the back gardens of 1-3 Tovil Green and is positioned at a slightly raised position to the adjacent highway, Bridgeside Mews.
8. The proposed development would have a frontage onto Bridgeside Mews and I consider the proposal would relate to the existing development within this street scene. I observed at my visit that areas of landscaping which includes planting to the building frontages has been incorporated into the design of the existing development in Bridgeside Mews. This landscaping contributes positively to the character and appearance of the area.
9. The proposed development would be constructed up to the side boundaries of the site which would be enclosed by a closeboard fence to the north west and car park hardsurface to the south east. Although the proposal would be stepped back from the highway to the front, the verge would offer very limited opportunity for planting. There would, therefore, be very little opportunity to provide landscaping to the front or sides of the proposed development. The proposed layout would therefore, not reflect that of the adjoining existing development and would not maintain the appearance of the locality or enhance it.
10. The proposed parking spaces are constrained by the limited land available to the south eastern part of the appeal site. Access to and from the 2 parking spaces marked P1 on the site layout plan would require the driver of a vehicle to undertake one of the manoeuvres in reverse gear over a considerable distance. Whilst Kent County Council Highways and Transportation (Kent Highways) raise no objection to the proposal, the proposed parking layout would not facilitate readily accessible parking spaces for all future occupiers. The layout of the proposal in respect of parking provision is particularly contrived and designed to fit the space rather than being designed as an integral part of the layout of the proposed development.
11. Whilst the proposed houses would have generous sized bedrooms and large combined living areas, I find the external space to be cramped and contrived and would not provide appropriate space for either meaningful soft landscaping or suitable and efficient parking layout. The cramped nature of the proposed

development would be apparent when viewed from the street scene and would not be of sufficiently high quality to reflect the existing development in the area.

12. For these reasons I conclude that the proposal would be harmful to the character and appearance of the area. The proposed development would be contrary to paragraphs 17, 56, 57 and 58 of the National Planning Policy Framework (the Framework) that seek to secure high quality design that functions well and incarnates appropriate landscaping.
13. I note that the Draft Maidstone Local Plan (the Draft Local Plan) has been submitted for Examination albeit the Examination itself is on-going. With due regard to paragraph 216 of the Framework, the plan is clearly advancing towards potential adoption although I am unaware of the extent of unresolved objections to the policies cited by the Council. As a consequence I give moderate weight to Policy DM27 of the Draft Local Plan and conclude that the proposal would run contrary to its objectives to secure good design which appear broadly consistent with those of the Framework as iterated in Section 7.

The living conditions of adjoining occupiers

14. The two-storey flank wall would be positioned directly to the rear of No 1 Tovil Green. Both parties indicted the separation distance from flank to rear of No 1 to be around 16.3m, although I observed an existing part width single-storey rear extension that projects closer to the proposed development. Patio doors in the rear elevation of this extension providing outlook toward the proposal from a habitable room. Whilst the remaining garden would retain a degree of separation to the existing dwelling, the proposed flank elevation of the size and scale spanning the full width of the existing garden would be clearly visible in the outlook to the occupiers of this adjoining property. The proposal given its proximity to and relation with this adjoining property would dominate the outlook from both the internal living space and the private rear garden.
15. For these reasons I conclude that the proposal would be harmful to the living conditions of adjoining occupiers. The proposed development would be contrary to paragraphs 17, 53 and 64 of the National Planning Policy Framework (the Framework) that seek to secure high quality design and a good standard of amenity for all existing occupants of land and buildings. For the same reasons as above I give moderate weight to Policies DM1 and DM10 of the Draft Local Plan and conclude that the proposal would run contrary to its objectives to secure good design which appear broadly consistent with those of the Framework.

Other Matters

16. In reaching my decision, I have considered the points raised by the appellant in relation to overlooking and privacy and the parking concerns highlighted by residents. The Council did not raise any concerns to living conditions on grounds beyond those impacting No 1 Tovil Green. I consider the separation of the proposal and relationship with other residential occupiers would not cause undue harm to their living conditions.
17. Some local residents have raised concern to the loss of existing on-street parking spaces and to potential additional parking congestion in the area. I note Tovil Parish Council comments that parking at the front of the

development to be acceptable to them. The proposal would provide 5 parking spaces for the existing properties, 1-3 Tovil Green, and 5 spaces for the proposed dwellings. This parking provision would off-set the small number of on-street spaces lost and would be unlikely to create congestion or inconvenience to highway users.

18. Although a Councillor offers support to the proposal and no objection has been raised by utility companies or Tovil Parish Council, these stances do not outweigh the harm that I have identified in terms of the main issues in this appeal.

Conclusions

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed and planning permission is refused.

Nicola Davies

INSPECTOR