

Appeal Decision

Site visit made on 24 January 2017

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 21 February 2017

Appeal Ref: APP/U2235/W/16/3160423

22 Albert Street, Maidstone, Kent ME14 2RN

- 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 Steve Burrows against the decision of Maidstone Borough Council.
 - The application Ref 15/506552/FULL, dated 10 August 2015, was refused by notice dated 14 June 2016.
 - The development proposed is described as the erection of a detached, two storey, three bedroom dwelling house with associated covered parking.
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Decision

1. The appeal is allowed and planning permission granted for the erection of a detached two storey, two bedroom dwelling at Land rear of 22 Albert Street, Maidstone, Kent ME14 2RN in accordance with the terms of the application Ref 15/506552/FULL, dated 10 August 2015, subject to the conditions in the schedule at the end of the decision.

Preliminary Matters

2. The proposed development was amended during the determination of the planning application from a three bedroom dwelling to a two bedroom dwelling. I have therefore used the description adopted by the Council in its decision notice as the basis for the description of development in my formal decision. I have also used the address which the Council adopted as this more accurately describes the location than that used on the application form.
3. Section 38(6) of the Planning and Compulsory Purchase Act, 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise. The Council made no reference to development plan policies in its reason for refusal. Nevertheless, I have had regard to the Maidstone Borough Wide Local Plan, 2000 (the MBWLP) and the emerging Maidstone Local Plan, 2016 (the eLP) which is in the process of examination. The weight to be given to the relevant policies of both documents in my consideration of the main issue is in accordance with paragraphs 215 and 216 of the National Planning Policy Framework (the Framework).

Main Issue

4. The main issue is the effect of the proposed development on the character and appearance of the surrounding area.
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Reasons

5. The appeal site which was formerly part of the rear garden of 22 Albert Street has a frontage to Sandling Road. Between the appeal site and the Flower Pot Public House is a private access drive serving the rear of properties on Sandling Road. The Flower Pot is a Grade II listed building. To the north is a large surface level car park, partially screened by trees with a petrol filling station to the north-west.
6. The proposed development would comprise a two-bedroom dwelling over two floors with a separate car port. The house would be gable fronted with low eaves and ridge heights.
7. The rhythm within the streetscene and architectural detailing provided by the Victorian terraced housing of Albert Street and Sandling Road establishes the character of the wider area and creates a sense of place. The appeal site does not form part of a terrace and being relatively isolated from other properties provides an opportunity for a different design response rather than mimicking the Victorian character of adjoining streets. Innovation in design, particularly of good quality, would not be out of place in this location and has the potential to enhance it. I therefore find that the contemporary design approach proposed would be more appropriate in this context than an imitation of the surrounding Victorian properties.
8. I also consider that the design elements including the placement and shape of windows, gable end form and proposed materials, whilst not matching neighbouring properties does respect local context and scale and would provide a scheme which would be visually attractive. The yellow stock brick and slate roof would not be out of character with the materials used in nearby buildings.
9. The open character provided by rear gardens of properties in Albert Road and Sandling Road would be altered as a result of the development. However, because of the distance between the proposed development and neighbouring properties and the scale of the development the impact on this open character would be limited.
10. The Council noted that there is no evidence in surrounding streets of back-land or infill housing development. Additionally, in creating an access directly from Sandling Road the proposal would differ from that found in neighbouring roads where frontage access for the highway does not occur. However, whilst the proposed development would result in the introduction of built form the proposed development would not appear cramped or overdeveloped but would be seen as an acceptable intervention within the streetscene.
11. The appeal site has some potential for landscaping to soften the impact of the new development although given the pattern of development locally with houses close to the street the landscape requirement for the appeal scheme would be limited. Consequently the hard finish to the scheme, as described by the Council, would not appear out of place and would not be harmful to the streetscene.
12. I have also had regard to the setting of the Grade II listed Flower Pot Public House. The appeal site forms part of the setting of the listed building and views of it contribute to its significance. Whilst the proposed development would be visible in some views of the listed building I do not consider that

there would be harm to the heritage significance of the listed building arising from the proposed development. Consequently there would be no conflict with Policy DM3 of the eLP.

13. I therefore find that the proposed development would be of a high quality in accordance with the requirements of Policy DM1 of the eLP and paragraph 57 of the Framework. In adding to the overall quality of the area and creating an attractive place to live, optimising the development potential of the site and being of a good architectural quality the proposed development would address the requirements of paragraph 58 of the Framework. I also find that the proposal would meet the aim to secure a high quality design in line with paragraph 17 of the Framework. Additionally there would be no conflict with paragraph 60 which states that planning decisions should not attempt to impose architectural styles or particular tastes and should not require development to conform to certain development forms or styles.

Other Matters

14. A number of neighbouring residents raised concerns about the impact of the proposed development in terms of access and parking within the locality. As there is an existing access to the site which is proposed to be relocated I find that the access proposals would be acceptable. The use of the site for parking associated with 22 Albert Street has ceased and the proposed development includes a car port which would be in line with Kent Parking Standards, Interim Guidance Note 3 and is therefore acceptable. The loss of one, on-street parking bay would not be sufficient reason to dismiss the appeal.
15. Concern was also raised about the effect of the proposed development on the living conditions of neighbouring residents particularly in respect of outlook, privacy and sunlight. Given the separation distances between the proposed development and neighbouring properties as well as the form and glazing of windows I find that the proposed development would not adversely affect the living conditions of neighbours. With regard to the principle of residential garden development I consider that the proposal would not cause harm to the local area and therefore would not be contrary to Policy DM10 of the eLP or paragraph 53 of the Framework.
16. Landscaping, the impact on wildlife and lighting concerns can be addressed through appropriately worded conditions. Concerns about the potential conflict with the use of the garden of the public house would also not be of sufficient weight to dismiss the appeal.

Conditions

17. The Council suggested a number of conditions were I to allow the appeal. I have had regard to these in the light of the Framework and Planning Practice Guidance (PPG).
18. In addition to the standard implementation condition (Condition 1) I have imposed a condition specifying the relevant drawings as this provides certainty (2). Conditions are necessary to address the appearance of the building (3) and in the interests of protecting the character of the area in the future (4). In order to protect the living conditions of residents of neighbouring properties it is necessary to impose a condition requiring some of the windows to contain obscure glazing and to be non-opening (5).

19. To ensure a satisfactory setting and external appearance to the development a condition relating to landscaping is necessary to address the requirements of Policy ENV6 of the MBWLP (6). A condition to provide and maintain parking on site in accordance with Policy T13 of the MBWLP is also required in the interests of other road users (7).
20. A condition to enhance biodiversity on the site is appropriate (8) as is a condition to control external lighting (9) in the interests of the living conditions of neighbours. Finally, a condition to undertake an archaeological watching brief is necessary because the site is within an area of archaeological importance (10).
21. PPG advises that care should be taken when using conditions which prevent any development authorised by the planning permission from beginning until the condition has been complied with. In this respect it is necessary for conditions 3, 6, 8 and 10 to be conditions precedent as they are so fundamental to the development that it would otherwise be necessary to refuse the application. I do not consider that condition 9 needs to be a condition precedent and therefore I have amended it.

Conclusion

22. For the reasons set out above, the appeal is allowed.

Kevin Gleeson

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:

Proposed Site Plan PHA-PL-006 Rev A; Proposed Plans PHA-PL-004 Rev C and Proposed Elevations PHA-PL-PL005 Rev C.
3. Written details including source/manufacturer, and samples of bricks, tiles and any cladding materials to be used externally along with details of the proposed timber gates, shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and the development shall be carried out in accordance with the approval given.
4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development shall be carried out within Classes A, B, C and E of Part 1 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order).
5. Before the first occupation of the building hereby permitted the windows(s) on the south (rear) and west (flank) elevations shall be fitted with glass that has been obscured to Pilkington level 3 or higher (or equivalent) and shall be non-opening up to a maximum height of 1.7m above internal floor level. Both the obscured glazing and the non-opening design shall be an integral part of the manufacturing process and not a modification or addition made at a later time. The windows shall thereafter be retained as such.
6. Prior to development commencing a landscape and boundary treatment scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall detail all new planting including the location, species, heights and numbers of all soft landscaping and all boundary treatments in terms of location, type, material and height. The approved scheme shall be implemented prior to occupation (boundary) or within the next available planting season following occupation (landscaping). All trees and shrubs shall be retained for a period of five years from the date of planting and should any planting become damaged or diseased within that period the specimen shall be replaced unless otherwise agreed in writing by the Local Planning Authority.
7. The building hereby approved shall not be occupied until the approved parking area has been provided, surfaced and drained in accordance with the approved details and shall be retained for the use of the occupiers of, and visitors to, the premises. Thereafter, no permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking area.
8. Prior to development commencing, a scheme for the enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. This shall include the provision of bat/bird

boxes and the use of swift bricks. It shall be implemented in accordance with the approved proposals and shall be maintained permanently thereafter.

9. No external lighting shall be installed until details have been submitted to, and approved in writing by the Local Planning Authority. The approved scheme shall be installed, maintained and operated in accordance with the approved details.
10. Prior to development commencing an archaeological watching brief to enable the excavation to be observed and items of interest and finds recorded shall be submitted to and approved by the Local Planning Authority. The works shall be carried out in accordance with the approved details.