



Appeal Decision

Site visit made on 17 May 2019

by J Slominski BA(Hons) MCD

an Inspector appointed by the Secretary of State

Decision date: 15 July 2019

Appeal Ref: APP/U2235/W/18/3218708

Land at Forest Hill, Tovil, Maidstone, Kent, ME15 6FG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Neil Macleod against the decision of Maidstone Borough Council.
 - The application Ref 18/504631/OUT, dated 3 September 2018, was refused by notice dated 6 November 2018.
 - The development proposed is Construction of two number detached 4 bedroom houses and two number semi-detached 3 bedroom houses and associated parking and landscaping on vacant land.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application is for outline consent with all matters reserved. I have therefore treated the submitted plans as indicative only.

Main Issues

3. The main issues are:
 - i. the effect of the development on character and appearance, with particular regard to open space, trees and planting; and
 - ii. whether or not the development would result in acceptable living conditions for future occupiers, with particular regard to the proximity of the basketball court to the west.

Reasons

Character and Appearance

4. The site is currently a green space comprising shrubbery and several trees within a built up suburban residential area. The surrounding streets generally comprise two storey houses with pitched roofs, set behind landscaped front gardens, grass verges, and/or mature trees. The site is currently unkempt and boarded up, however it does contribute positively to the provision of green infrastructure and the visual amenities of its setting.

5. The proposed development would remove the majority of that green space and the trees and shrubbery on it, and replace it with housing. The site has a wide frontage, however its length (east to west) is limited. The indicative proposed plans show that the buildings are likely to be arranged in a linear fashion along the street, given the shape of the site and its wide frontage.
6. With a few exceptions, the houses on Courtenay Road and Forest Hill are generally set back from the road behind grass verges or substantial front gardens, neither of which are proposed on the indicative plans. The character of the street is varied and the erection of three houses to the south of the site was granted planning permission (ref. 15/506232/FULL) which would further vary the street scene, although the approved layouts of those houses show that they would be set behind front gardens.
7. Due to the site's limited length, it is likely that very small rear gardens would be provided, with the houses situated close to the edge of the pavement. For the same reason there are unlikely to be opportunities for parking in front of the houses or screened behind substantial soft landscaping, resulting in a very urbanised appearance. The indicative plans show parking spaces between the houses, which would result in wide gaps between the houses. Although that sort of arrangement may allow views through to trees at the rear, the overall effect on the pedestrian environment and street scene would be to replace a verdant green space with substantial amounts of hardstanding and tightly arranged housing development, with an excessively urbanised appearance.
8. As a result of the amount of new housing proposed within the site's confined shape and size, there would be very few opportunities for substantial replacement planting in front of or around the new buildings. The development would result in a significant reduction of green space and planting and would fail to provide sufficient opportunities for soft landscaping to mitigate the effect on the street scene.
9. That significant reduction in green space and soft landscaping would be harmful to the local character and appearance, contrary to Policies DM1 and SP1 of the Maidstone Borough Local Plan 2017 (the "Local Plan") which together require development to contribute positively to the locality's distinctive character; retain and positively contribute to the setting, accessibility, biodiversity and amenity value of green spaces, and sensitively incorporate natural features such as trees and hedges in a manner which reflects and respects the local and natural character of the area.
10. The site has extensive planning history which I have considered. I have noted that in a previous appeal, ref. APP/U2235/W/16/3157506 the Inspector stated that due to its "generally unkempt appearance, the visual contribution of the trees and vegetation along the Forest Hill frontage is not so significant as to preclude any development. However, the proposal would remove nearly all of the existing verdant frontage and replace it with two prominent blocks of flats and a parking area. With little opportunity for any replacement planting with semi-mature trees or other soft landscaping to break up the built frontage, the result would be an unduly hard urbanisation of the street scene in this location." That statement does not conflict with the Council's acceptance that the site is an appropriate location for development, nor does it override the need for future development to avoid harm to the locality's distinctive

character, which in this case includes the substantial soft landscaping and its associated benefits in terms of visual amenity.

11. Given that outline planning consent is sought with all matters reserved, it may be that at reserved matters stage the front gardens could be differently designed. In light of paragraph 54 of the National Planning Policy Framework, I have therefore considered whether the development could be made acceptable through the use of conditions. However, given the site's constrained proportions and the amount of housing proposed, it is not at all clear that sufficient soft landscaping could be provided whilst accommodating the amount of housing and parking proposed. Furthermore, the resultant effect on the provision of sufficient garden space and separation between buildings to ensure adequate living conditions for future residents has not been demonstrated. I am therefore not able to determine with confidence whether or not the harm that I have identified could adequately be mitigated by a planning condition.

Living Conditions for future occupiers

12. The site is located adjacent to a basketball court which is floodlit at night (and also used for other activities). The indicative plans show that residential windows may overlook the basketball court, and therefore suffer from intrusive external lighting after dark. The basketball court is a facility used by the local community, and tension between the users of the court and the amenity expectations of future occupiers may place undue pressure on the operation of that facility. I therefore place great weight on the need for the development to provide its occupants with adequate living conditions which minimise the potential for conflict with the users of the basketball court.
13. A lighting assessment was submitted with the appeal which demonstrates that the lighting spillover is limited, and due to the orientation of the basketball court no floodlights are directed towards the proposed residential units. There may be individual instances of luminaires looking back towards the houses at the opposite end of the basketball court which could remain visible as irritating and bright sources of light. However, as the proposed houses would be semi-detached or detached, opportunities exist to design them with the main windows positioned appropriately (on side elevations if necessary) to avoid unacceptable relationships between the basketball court and the houses. Similarly, the detailed design of the houses could place less-sensitive rooms closest to the basketball court with quieter rooms (i.e. living rooms and bedrooms) facing away from the basketball court to limit noise impacts. Demonstration of how the individual design and layout of the houses would avoid poor living conditions arising from the relationship with the basketball court could be achieved through an appropriately worded planning condition.
14. I therefore find that subject to appropriate detailed design which could be required by planning conditions, the proposed development would be capable of providing its future occupants with adequate residential amenities in compliance with Policy DM1 of the Local Plan.

Other Matters

15. I have considered the other matters raised by the interested parties including the lack of a footpath across the site, the loss of trees, and impacts on the highways. However, in view of my overall conclusions resulting in my decision

to dismiss the appeal, it has not been necessary for me to consider those matters further in this case.

Conclusion

16. Although I have found that the proposed development is capable of providing satisfactory living conditions for future occupants, the development would result in harm to character and appearance and would therefore not comply with the development plan. Having had regard to the above, and all other matters raised, the appeal is dismissed.

Jan Slominski

INSPECTOR