



Appeal Decision

Site visit made on 25 June 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th July 2019

Appeal Ref: APP/A2280/W/19/3226129

8 Ivy Street, Rainham, Gillingham ME8 8BE

- 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 Gary Berg against the decision of The Medway Council.
 - The application Ref MC/18/3586, dated 14 December 2018, was refused by notice dated 6 February 2019.
 - The development proposed is a new 3 bed house (pursuant to a previous refusal).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are as follows:
 - The effect of the proposal on pedestrian safety with regard to the effect on the access to 6 Ivy Street; and
 - The effect of the proposal on highway and pedestrian safety, and the living conditions of neighbouring occupiers, with regard to parking provision.

Reasons

Pedestrian safety

3. The appeal site comprises an area of garden to the side of 8 Ivy Street, which has a vehicular access and provides parking for that dwelling. Ivy street is a straight road that is dominated by tightly spaced two storey dwellings that are generally terraced and set close to the back of the footway. Properties are predominantly residential, but are interspersed with some commercial uses.
4. A parking space serving No 6 is located immediately adjacent to the common boundary, so that drivers leaving the space would be reliant on visibility across the front corner of the appeal site in order to have sight of approaching pedestrians on Ivy Street. Pedestrian visibility is restricted in the other direction by the existing house at No 6. I observed on my site visit that the footway was in light use by pedestrians, but it would be reasonable to assume that it would be in heavier use at other times of day, including by children walking to local schools and to access public transport.
5. The proposal would result in a new dwelling built up to the side boundary of the site with 6 Ivy Street, and up to the back of the public footway. The new

dwelling would permanently obstruct pedestrian visibility from the parking space across the front corner of the appeal site. As a result, approaching pedestrians, children and wheelchair users would not be visible to the drivers of vehicles emerging from the parking space, which would add to hazards for pedestrians and be potentially harmful to their safety. I accept that there are similar access points in the locality, and that visibility is already restricted by the presence of the house at No 6. However, the appeal proposal would further restrict visibility from this parking space and unacceptably add to the hazards for pedestrians using the footway.

6. At the time of my site visit, temporary hoarding was in place on the side and front boundaries of the appeal site, restricting pedestrian visibility from the parking space at No 6. I acknowledge that there was previously a wall on the boundary, but as this has been removed it does not have any bearing on my decision. A 1 metre high fence could be erected to the front of the appeal site, but this would not obstruct views of pedestrians to the extent that would result from this proposal.
7. I therefore conclude that the proposal would be harmful to pedestrian safety with regard to its effect on the access to 6 Ivy Street. It would therefore be in conflict with Policies T1 and T13 of the Medway Local Plan 2003 (the Local Plan), which seek, amongst other matters, to ensure that new development does not add to the risk of road traffic accidents and makes provision for safe pedestrian access. It would also be in accordance with the guidance in the National Planning Policy Framework (the Framework).

Parking provision

8. The proposed dwelling would be built in line with the front elevation of No 8, at the back edge of the footway. It would thereby result in the loss of the parking for No 8, and would not provide any off street parking. The site is within walking distance of Rainham town centre, with its local amenities and a railway station. It is also in close proximity to a bus route. The accessible location of the site indicates that parking standards should be applied flexibly. The site is located in a residents' permit parking zone, with other parking prevented from 8-10am Monday to Friday.
9. At the time of my site visit, which was around midday on a weekday, there were a few on street parking spaces available in Ivy Street, and a greater number available in the surrounding roads. I appreciate that this is only a snap shot in time, and it would be reasonable to assume that pressure is greater during the evenings and weekends.
10. An appeal¹ has recently been allowed for a dwelling on the site, that would result in the loss of parking for the existing dwelling, but would provide two off-street parking spaces for the new property. The Inspector found that, in the absence of clear evidence of local parking stress, the proposal would not result in a material shortage in provision of off road parking and it would provide adequate spaces for the new dwelling. Moreover, even if there were a deficiency, this would not have an unacceptable impact on highway safety.
11. This proposal would not provide parking for the new dwelling, and it would therefore create greater demand for on street parking spaces. The parking

¹ Ref APP/A2280/W/18/3218239

survey that has been provided with the appeal covers Ivy Street and surrounding roads within walking distance of the site and indicates that there are usually some spaces available in the wider area. The 'dash cam' photographs that accompany the survey indicate some evidence of parking stress, with vehicles parked across the pavement before the 8am restrictions on the single yellow line sections of Ivy Street. The surveys also indicate that the permit controlled spaces on Ivy Street were at capacity on the Saturday. While it is clear that there is a parking pressure in the area, the evidence indicates that parking spaces are likely to be available in the wider area.

12. Moreover, no substantive evidence has been provided to demonstrate that the additional demand for on street parking spaces would be harmful to highway or pedestrian safety. I accept that the proposal is likely to result in additional inconvenience to residents having to drive around searching for an available parking space and potentially having to park some distance from their house, but I have seen no evidence that this would be significantly harmful to their living conditions.
13. I therefore conclude that the proposed development would not be harmful to highway or pedestrian safety, or the living conditions of neighbouring occupiers, and as a result it would not conflict with Policies T1, T13, BNE2 and H4ii of the Medway Local Plan 2003 (the Local Plan), insofar as they seek to ensure that adequate parking is provided and that development is not harmful to residential amenity. It would also be in accordance with the guidance in the Framework.

Other Matters

14. 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. 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.

Planning Balance and Conclusion

15. The Council has confirmed that it cannot currently demonstrate the availability of a five year supply of deliverable housing sites. Having regard to paragraph 11 of the National Planning Policy Framework (the Framework), the most relevant policies for determining the application should therefore not be considered up to date. Paragraph 11 states that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. In this case, from the evidence before me, there are no specific policies in the Framework that indicate that development should be restricted.
16. In terms of benefits, the proposal would make a modest contribution to the supply of housing and towards helping to address the Council's shortfall, in a location with good accessibility to local services and facilities. Due to the small scale of the development these are limited benefits.

17. In contrast, I attach substantial weight to the harm to pedestrian safety, which brings the scheme into conflict with policies of the Framework that seek to ensure safe access. Therefore, in terms of the planning balance, when the proposal is assessed against the policies in the Framework taken as a whole, the adverse impacts of the proposal significantly and demonstrably outweigh the benefits. Consequently, the Framework is not a material consideration that indicates a decision other than in accordance with the development plan.
18. Notwithstanding my conclusion with regard to parking provision, this does not outweigh the harm I have identified in relation to the first main issue. For the reasons given above, and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR