
Appeal Decision

Site visit made on 2 July 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd August 2019

Appeal Ref: APP/U2235/W/19/3225078
466 Loose Road, Maidstone ME15 9UA

- 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 R Parsons on behalf of Applecross Homes against the decision of Maidstone Borough Council.
 - The application Ref 18/504636/OUT, dated 3 September 2018, was refused by notice dated 22 February 2019.
 - The development proposed is outline planning permission for the demolition of 466 Loose Road and the erection of six residential dwellings (one detached two storey dwelling fronting Loose Road and five bungalows within the rear). All matters are reserved for future consideration with the exception of access which is to be considered in detail at this stage.
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Decision

1. The appeal is allowed, and planning permission is granted for outline planning permission for the demolition of 466 Loose Road and the erection of six residential dwellings (one detached two storey dwelling fronting Loose Road and five bungalows within the rear), at 466 Loose Road, Maidstone ME15 9UA, in accordance with the terms of the application, Ref 18/504636/OUT, dated 3 September 2018, subject to the conditions set out on the attached schedule.

Application for costs

2. An application for costs was made by Mr R Parsons on behalf of Applecross Homes against Maidstone Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. The original application was made in outline with all matters reserved apart from access. I have had regard to the existing block plan (141201/18), site plan (12/456/14A), landscape master plan (1807/02), section showing relationship of plot 5 to 7 Skye Close (12/456/15), cross section of cellweb over TRP area during construction (TR18-2837_RUR_CEL V1 Sheet 1/1), cross section of cellweb over TRP area after construction (TR18-2837_RUR_CEL V1 Sheet 1/1), vehicle swept path analysis refuse vehicle (13033 T-01 Rev. P1), vehicle swept path analysis pantechnicon and fire tender (13033 T-02 Rev. P1), proposed visibility splays (11509 T-03 Rev. P1), proposed visibility splays (11509-T-05 Rev. P1) but have regarded all elements of these drawings as indicative apart from the details of the access.

4. A number of pre-commencement conditions have been recommended and the appellant has been afforded the opportunity to comment on these.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

6. Both main parties agree that the appeal site is situated within the defined urban area of Maidstone¹. The site incorporates the existing plot of land associated with 466 Loose Road, together with land behind 464, 468 and 470 Loose Road. The site lies within a residential area, which has a mix of bungalows, two and three storey houses within the locality with a variety of plot sizes.
7. My attention has been drawn to the previous planning history for this site, which includes a dismissed appeal decision² for the erection of six two storey dwellings dismissed on 23 February 2018. The current appeal proposal seeks to overcome the previous Inspector's concerns and is for the outline planning permission for the demolition of 466 Loose Road and the erection of six residential units.
8. With regards to the earlier appeal decision² the previous Inspector considered that the proposal would cause harm to the character and appearance of the area. In particular, the Inspector stated that "the location of the proposed dwellings within the site, along with the scale and mass of each individual unit, would be highly visible through the access point on Loose Road, from Melrose Close and Anglesey Avenue. There would be limited space between large properties when viewed from the surrounding roads, which would create a cramped and overly intense form of development. This would significantly erode the sense of space that the site currently enhances". It was further stated that the development would "fail to sit comfortably alongside the surrounding developments of semi-detached houses and maisonettes and, in particular, the bungalows along Anglesey Avenue. At this point the skyline would be dominated by the large dwellings on Plots 5 and 6 rising above the adjacent bungalows. Such a change in scale would result in an incongruous and uncomfortable development."
9. To overcome the previous Inspector's concerns, the current scheme includes a reduction in the scale and height of dwellings in so far as the proposal now includes five bungalows to the rear of the site. The submitted drawings also illustrate an indicative landscaping scheme where each dwelling would have a landscaped front, side and rear gardens.
10. With regards to the scale and mass of each new dwelling, the indicative drawings demonstrate that the proposed replacement two storey dwelling, fronting Loose Road would be of an appropriate height and scale. Large detached two storey properties are a feature of Loose Road and the front building line would match the neighbouring property at No 464 Loose Road. Furthermore, the five bungalows to the rear of the site, together with the new access, would ensure that the development would not appear highly visible

¹ Taken from the appellant's appeal statement and the Council's committee report dated 21 February 2018.

² Appeal Ref: APP/U2235/W/17/3179007

from neighbouring streets, due to the limited height of the development and the retention of existing landscaping to the front and rear of the site.

11. In addition, there are a number of culs-de-sac in the area which includes Skye Close and Melrose Close, and therefore the development would be in keeping with the surrounding form of development. In this regard, the scale of the development would be acceptable in the context of the variety of building sizes and designs in the locality, and each new dwelling would be situated within its own relatively spacious plot in keeping with the character and appearance of the area. As such, there is no reason to suggest that an appropriate appearance and layout could not be secured at reserved matters stage. The submitted information indicates that the existing mature vegetation secluding the site would be retained, and further planting could be secured at the reserved matters stage if deemed necessary to help to ensure that the site is sufficiently screened from the adjacent properties and public vantage points on neighbouring streets.
12. Whilst I recognise that the justification for HD Policy 1 of the North Loose Neighbourhood Development Plan, 2016 (NP) states that only exceptional circumstances will the NP support development on gardens, for the reasons outlined above, the current scheme overcomes the previous Inspector's concerns, in so far as it would not significantly erode the sense of space in the area; it would no longer dominate the skyline from public vantage points; and it would better sit alongside the surrounding developments, including the adjacent bungalows in Anglesey Avenue.
13. As such, I find that the current proposals would preserve the character and appearance of the area. This is in accordance with policy DM11 of the Maidstone Local Plan, 2017 (LP), NP policy HD1, and the Loose Road Character Area Assessment Supplementary Planning Document, 2008, which amongst other things, require proposals to create high quality design, and preserve the character and appearance of the area.

Other Matters

14. Third parties have raised a range of further concerns regarding outlook and privacy, the lack of need for additional homes given that the Council can demonstrate a five year housing land supply (HLS), traffic and highway safety concerns, flood risk/drainage concerns, increased pressure on local community infrastructure, lack of affordable housing, effect on ecology and the protected tree to the front of site, and how over 55's accommodation could be secured. None of these issues feature in the Council's Reasons for Refusal and there is no substantive evidence before me relating to any of these matters.
15. Regarding the effect of the development on neighbouring occupiers, owing to the single storey nature of the proposed bungalows, together the height of existing boundary treatments around the site, the development would not harm the living conditions of neighbouring occupiers. A condition is also attached which requires that the five rearmost properties have all their living accommodation solely on the ground floor, with an eaves height of no more than 2.5m from ground level, in addition to no openings in the roof space. This would ensure that there would be no loss of light, outlook or privacy to neighbouring occupiers.

16. Whilst the Council can demonstrate a five year HLS, this does not mean that acceptable developments on windfall sites should be refused. The development would make a modest contribution to increasing the supply of housing which is in accordance with the Framework, and the Government's commitment to significantly boost the supply of housing. The development is below the threshold for affordable housing, and therefore no objection is raised with regards to this.
17. The Council and the Local Highway Authority raised no objection with regards to traffic and highway safety and are satisfied that vehicles will be able to turn within the site and egress onto the public highway in a forward manner. Whilst there would be a modest increase in trip generation, I do not consider that the development would cause congestion or harm to highway safety. National Policy is clear that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. In this case, it is clear that the proposed development would not lead to an increase in traffic that would generate a severe impact, and as such no objection is raised on traffic and highway safety grounds.
18. The submitted documents state that the five bungalows would be for persons over 55 years of age. The Officer's Report highlights that LP policy SP19 acknowledges that older persons can have specific housing needs, with the policy itself stating that the Council will work with partners to support the provision of specialist and supported housing for the elderly. Furthermore, Local Plan policy DM1 also considers high quality design to include proposals being flexible towards future adaptation in response to changing life needs and the justification for NP policy HD1 highlights that local people say that the area needs more sheltered housing and bungalows. This demonstrates a generalised need for housing suitable for the elderly, and based on the evidence before me, the development would provide suitable accommodation for over 55s in the form of five bungalows. However, since the proposal is considered to be acceptable on its own merits, it is not considered reasonable or necessary to impose a condition restricting the occupancy of the bungalows. In reaching this view I note that the Council has not raised any objection with regards to this and has also not recommended any conditions restricting the occupancy of the bungalows for over 55s.
19. I have attached conditions to ensure that surface and foul water drainage is dealt with appropriately. With regards to concerns that the development would have an adverse effect on ecology, the appellant has provided a Preliminary Ecological Appraisal prepared by KB Ecology which assessed the potential for the presence of protected species, important habitats and other biodiversity features within the site and its surroundings and set out ecological mitigation requirements that could be incorporated as part of the proposed development. These would be incorporated into the scheme at the reserved matters stage, once the appearance, landscaping, layout and scale of the development has been decided. With regards to the Purple Beech tree to the front of the site, conditions are attached to secure the protection and retention of this protected tree. I also note that the Council's Landscape Officer raises no objection with regards to this.

Conditions

20. A number of conditions have been suggested by the appellant and the Council which I have assessed having regard to the advice contained within the Planning Practice Guidance. I have amended some conditions in the interests of precision and clarity. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development.
21. Conditions limiting the eaves height of the five rearmost properties and that the roof space shall contain no living accommodation are necessary to protect the living conditions of neighbouring occupiers and ensure the appearance of the development would be satisfactory. For the same reasons a condition is also attached to ensure that no new building is sited within 5m of the boundary with properties on Skye Close.
22. Conditions are also attached to ensure long term retention of the protected Purple Beech tree. I have also attached conditions on pedestrian and vehicular access visibility splays in the interest of highway safety. It is necessary to require compliance with the submitted plans, but only in relation to access as this is not a reserved matter.
23. I have imposed a condition which requires electric vehicle charging infrastructure to be provided to promote more sustainable forms of transport and reduce CO2 emissions through use of low emissions vehicles. I have attached a condition to ensure that surface and foul water drainage is dealt with appropriately to avoid the risk of water flooding and pollution. As these details may affect the final design of the dwellings, it is necessary for this to be a pre-commencement condition.

Conclusion

24. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

R Satheesan

INSPECTOR

SCHEDULE OF CONDITIONS

1. The development hereby approved shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:

a. Appearance b. landscaping c. layout d. scale

Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.

The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later;

2. The reserved matters submitted pursuant to condition 1 shall show the five rearmost properties having living accommodation solely on the ground floor, an eaves height of no more than 2.5m from ground level, and no openings in the roof space;

3. The reserved matters submitted pursuant to condition 1 shall have no building within 5m of the boundary of the appeal site with adjacent properties on Skye Close.

4. Prior to the commencement of the development hereby approved an Arboricultural Method Statement (AMS), in accordance with BS5837:2012 and submitted drawing references: TR18-2837_RUR_CEL V1 (Cross sections of Cellweb construction during and after construction) received 28/11/18, shall be submitted to and approved in writing by the Local Planning Authority. The AMS shall include details of the phasing of the access road construction and sectional drawings of its construction, and the development shall be built in accordance with the approved AMS.

5. The development hereby approved shall be carried out in accordance with the tree protection details, as set out in the submitted GRS Arb Consultant Report (ref: GRS/TS/TCP/AIA/TPP/19/18).

6. The access hereby approved shall be carried out in accordance with the Cellweb Technical Recommendation report and drawing references: TR18-2837_RUR_CEL V1 (during and after construction) and shall thereafter be permanently retained.

7. Prior to the occupation of the development hereby approved, details of pedestrian visibility splays shall be submitted to and approved in writing by the local planning authority. The visibility splays shall be maintained in accordance with the approved details and in place prior to the occupation of the development and permanently maintained as such thereafter.

8. The access road onto Loose Road hereby approved and the visibility splays shall be carried out as shown on drawing reference: 11509-T-05 Rev P1 prior to the occupation of the development hereby approved. The visibility splays shall be maintained in accordance with the approved drawing and kept free of obstruction

over 0.6m above carriageway level within the splays prior to the occupation of the development and permanently maintained as such thereafter.

9. Prior to the occupation of the buildings hereby permitted, a minimum of one operational electric vehicle charging point per dwelling for low-emission plug-in vehicles shall be installed and shall thereafter be retained for that purpose.

10. With regards to the access only, the development hereby permitted shall be carried out in accordance with the following approved details:

Site location plan (1:1250) and 12/456/14A; 11509-T-05 Rev P1; Cellweb Technical Recommendation report and drawing references: TR18-2837_RUR_CEL V1 (during and after construction); 13033-T-01 Rev. P1, and 103033-T-02 Rev. P1.

11. No development shall take place until a scheme for the provision and implementation of surface water drainage incorporating sustainable urban drainage schemes (SUDs) and an assessment of the hydrological and hydrogeological context of the development has been submitted to the Local Planning Authority for approval in writing. The scheme shall be constructed and completed in accordance with the approved plans and prior to the occupancy of any part of the development and permanently retained as such thereafter.

12. No development shall take place until details of foul water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be constructed and completed in accordance with the approved plans prior to the occupancy of any part of the development and permanently retained as such thereafter.