The Planning Inspectorate

Appeal Decision

Site visit made on 9 October 2019

by R J Jackson BA MPhil DMS MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2019

Appeal Ref: APP/U2235/W/19/3224698
Advertising Right, 102 Upper Stone Street, Maidstone ME15 6HD

- 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 John Iandolo, G J Properties LLP against the decision of Maidstone Borough Council.
- The application Ref 18/502416/FULL, dated 3 May 2018, was refused by notice dated 20 September 2018.
- The development proposed is new block comprising 17 apartments with associated car and bicycle parking, enclosure refuse storage and a communal amenity area above the car park.

Decision

1. The appeal is dismissed.

Procedural matters

2. During the consideration of the application, the name of the applicant was amended to that given above in the heading.

3. The Council refused the application for two reasons. The second concerned the lack of a Planning Obligation to deal with affordable housing. A Planning Obligation under Section 106 of the Town and Country Planning Act 1990 (as amended) by way of unilateral undertaking has been submitted dated 13 September 2019. I will deal with this below.

Main Issues

4. The main issues are:

   - the effect on the character and appearance of the area; and
   - whether the proposed development makes appropriate provision for affordable housing.

Reasons

Character and appearance

5. The appeal site lies on the western side of Upper Stone Street. This is a two-lane one-way road with traffic and other highway users travelling up a significant hill from Maidstone town centre, which is to the north.

6. On this part of the western side of Upper Stone Street are a mixture of commercial uses, including two car sales sites. To the south of the appeal site is a motor repair workshop. This building is predominantly double height single storey, with a pitched roof running along the depth of the site. It has a flat-roofed two storey narrow element across the front elevation. To the north of the appeal site is a two storey commercial unit with a low pitched roof in the form of a double gable facing the appeal site.

7. The eastern side of Upper Stone Street is predominantly residential, although with some commercial uses, such as a public house opposite the appeal site. Buildings are generally two storey in height with pitched roofs, including the listed 135 to 141 Upper Stone Street, although some buildings are taller with the three storey 133 Upper Stone Street, and 35 and 36 Waterloo Street on the corner with Upper Stone Street. There is a four storey residential building, 1 to 18 Bychurch Place, on the south side of the corner of Upper Stone Street with Waterloo Street; this has a low pitch roof.

8. To the rear of the appeal site is a single storey industrial unit with a blank elevation facing the appeal site and a low pitched roof with the ridge running north/south.

9. There is thus a marked difference in character between the predominantly residential eastern side of Upper Stone Street and the commercial western side. The buildings on the western side are generally made up of large compositional elements commensurate with their commercial nature.

10. The proposal involves the clearance of the existing buildings from the site and the erection of a four storey residential building. There would be a single flat on the ground floor with covered parking behind. Above this would be a three storey element across the frontage and along the northern side of the appeal site. The area behind these two areas, at first floor level when compared to the street, would be provided as an outdoor amenity area for the occupiers of the flats.

11. The front elevation facing Upper Stone Street would have four horizontal bands to articulate each of the floors. The first and third floors would be set forward to the others and the ground and second floors would be set at a slight angle, being further forward to the south. The precise details of the materials are not included but the application form and Design and Access Statement indicate that red brick, grey standing seam cladding, render and Kentish Ragstone along with dark grey/black doors and windows would be utilised. The Design and Access Statement also emphasizes the verticality of the fenestration against the horizontality of the banding to add rhythm to the elevations.

12. The proposed building would be materially taller than the buildings on either side. This would make the building incongruous in that it would be unduly and harmfully prominent in the street scene. This would be emphasised by the topography of the area which would mean that the bulk of the building would be seen over and above the buildings to the north and south; this would highlight its prominence.

13. While the horizontal banding of the materials would follow the horizontal nature of the front elevation of the building to the north the vertical articulation of the fenestration elements would work against this meaning that the building would

appear as rows of piled up individual elements rather than a coherent whole. As such it would represent poor design.

14. The appellant notes that the proposal would introduce some landscaping in the area between Upper Stone Street and the building. However desirable landscaping might be, it would not ameliorate the harm to the street scene from the proposed building.

15. Overall the proposal would create an incongruous addition to the street scene, harmful to the character and appearance of the area and would represent poor design. It would therefore be contrary to Policy DM1 of the Maidstone Borough Local Plan (the Local Plan) which requires proposals to respect topography, be of high quality design, responding positively to, and where possible enhance, the local character of the area with particular regard paid to, amongst others, scale, materials, bulk and articulation. It would also be contrary to paragraphs 127 and 130 of the National Planning Policy Framework (the Framework) which indicate that planning decisions should ensure developments are visually attractive, sympathetic to the surrounding built environment, and that permission for development of poor design that fails to take the opportunities available for improving the character and quality of an area should be refused.

Affordable housing

16. Policy SP20 of the Local Plan seeks on housing sites of 11 residential units or more the delivery of affordable housing at 30% of the total, subject to viability. Affordable housing should be appropriately integrated within the site. In exceptional circumstances, and where proven to be necessary, off-site provision can be made with a financial contribution.

17. In support of the application a viability assessment was submitted which the Council accepted showed that an agreed contribution of £20,000 was appropriate in the circumstances of the case. I have no reason to disagree with this analysis.

18. However, correspondence from a bank forwarded by the appellant's agent indicates that "no steps to crystallise the Floating Charge contained in a Debenture" have been taken by that bank. It may be, therefore, that the bank would have an interest in the property and should have been party to the Planning Obligation. This may mean that the Planning Obligation would not have been completed by all the necessary parties.

19. Given that I am dismissing the appeal for other reasons, I do not need to conclude on this as it would make no difference to my overall conclusion, and therefore will not make a positive conclusion as to whether the proposal would make appropriate provision for affordable housing.

Other matters

20. I note that outline planning permission was granted in 2013 for the erection of 2 No of four storey buildings comprising 26 No apartments with associated landscaping, bicycle storage and bin storage. I have not been provided with details of this and note that this may well have lapsed through the passage of time. I therefore can give this very little weight.

21. Like the Council I am satisfied that due to the nature of Upper Stone Street there would be sufficient separation to the listed buildings at 135 to 141 Upper Stone Street so that their settings would be preserved.

22. The appellant has emphasised the benefits of the proposal in providing additional residential accommodation on previously developed land in a location close to Maidstone town centre. I take this into account and give it significant weight. However, I also note the importance given to design in the Framework and consider that this is of overriding importance in the determination of this appeal.

Conclusion

23. For the reasons given above I conclude that the appeal should be dismissed.

R J Jackson

INSPECTOR