The Planning Inspectorate

Appeal Decision

Site visit made on 13 January 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 January 2020

Appeal Ref: APP/U2235/W/19/3235104
The Lodge, Hayle Place, Cripple Street, Maidstone ME15 6DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
- The appeal is made by Mr Christopher Baron of Chailey Homes Limited against the decision of Maidstone Borough Council.
- The application Ref 19/501219/REM, dated 4 March 2019, sought approval of details pursuant to condition Nos 1 of a planning appeal Ref APP/U2235/W/3136135 granted on 14 March 2016.
- The application was refused by notice dated 28 June 2019.
- The development proposed is approval of reserved matters of access, appearance, landscaping, layout and scale following outline planning permission Ref 15/501069/OUT for the erection of four semi-detached dwellings with associated access, parking and landscaping following demolition of the existing dwelling and associated outbuildings.
- The details for which approval is sought are: Access, Appearance, Landscaping, Layout and Scale.

Decision

1. The appeal is allowed, and reserved matters approval is given for matters relating to access, appearance, landscaping, layout and scale following an outline planning permission Ref 15/501069/OUT for the erection of four semi-detached dwellings with associated access, parking and landscaping following demolition of the existing dwelling and associated outbuildings at The Lodge, Hayle Place, Cripple Street, Maidstone ME15 6DW in accordance with application Ref 19/501219/REM, dated 4 March 2019, subject to the conditions set out within the attached schedule.

Preliminary Matters

2. The description of proposed development provided on the planning application form has been replaced by a fuller version in subsequent documents. I consider this to be usefully more comprehensive and have thus employed it here.

Main Issues

3. The main issues relating to this appeal are whether the proposed development would result in piecemeal development and poorly relate to a development permitted under planning Ref: 13/2038, having particular regard to the character and appearance of the development in relation to the site entrance and the provision of a play area and open space, also at the site entrance.

Reasons

4. The appeal site lies within the site area of planning permission Ref: 13/2038 that granted outline planning permission for a 62-dwelling development, which was approved on 31 July 2017. That permission involved development to the west of this appeal site and placed a play area and an area of open space in the vicinity of the appeal site. That larger site, which includes this appeal site, is allocated within the Maidstone Borough Local Plan 2017 (the Local Plan) for 62 dwellings under Policy H1(24).

5. Notwithstanding the above planning permission, planning appeal Ref APP/U2235/W/3136135 granted outline planning permission in 2016 for the erection of four semi-detached dwellings with associated access, parking and landscaping following demolition of the existing dwelling and associated outbuildings at this appeal site. The appeal before me relates to an application that seeks approval of the reserved matters pursuant to that 2016 planning permission.

6. By virtue of the grant of the 2016 outline planning permission, this has established the principle of developing four residential properties at the appeal site. The Council does not contend this. Despite any change that may have taken place in regard to development plan policy and any subsequent planning permissions granted relating to the site, it is not the place of the reserved matters application to re-examine the principle of the permission that has been granted.

7. Notwithstanding this, the Council's is concerned that if the four dwellings at the appeal site were to be built out, this would have a fundamental impact on the approved layout granted pursuant to planning Ref: 13/2038 for the wider site and potentially frustrate its development. It is contended that it would also make it more difficult to secure an acceptable site layout for that scheme. Although accepting that the principle of the four dwellings has been accepted, the Council argues that the reserved matters application enables further assessment of the site context in light of material change in circumstances and contends the proposal should be considered in the context of the wider 62 dwelling development. Whilst the Courts may consider the Council's approach to revisit the principle of housing at the appeal site may err in law, I have nonetheless given the Council the benefit of the doubt in respect of this matter.

8. Policy H1(24) of the Local Plan is now in place and allocates land for the development of approximately 62 dwellings at an average density of 35 dwellings per hectare. Amongst the design and layout criteria that this policy sets out, there is a requirement for the provision of a play/amenity area within the site, but the policy is not prescriptive as to its location.

9. Whilst the Council raises concern that the proposal may frustrate the development of the wider site, I have not been provided with any substantive evidence that would clearly indicate that this would be the case. Furthermore, it does not appear to me that the four dwelling development would be directly contrary to any of the specific criteria set out in Policy 1(24) or that the development might negatively impact the deliverability of the allocation in its entirety. In addition, I have not been directed to any substantive reason that might indicate that the agreed layout approved for the 62 dwelling development would be the only developable option for delivering the development of the Policy H1(24) housing land allocation. Nor is there

sufficient evidence before me that would indicate that the proposal would not be compatible within the context of the wider development of the area.

10. Turning to townscape concerns, the extract provided by the Council from the 62-dwelling planning committee report indicates that a 2.5 storey apartment block was proposed in the vicinity of the entrance, along with an area of open space. The extract from the committee report comments that Council officers considered the apartment building, along with its height, would provide a quality and meaningful 'entrance' building to the site that would face onto the curved entrance road.

11. The proposal before me would relate to two semi-detached buildings, as opposed to an apartment development. The proposal would face onto the entrance of the site, although in a different positioning to that of the apartment blocks noted above. The dwellings would be 2.5 storey, similar to that of the previous apartment development, as well as that of other existing development in the area within close proximity to the appeal site. In this respect the proposal would not be significantly out of keeping with the existing character of development in the area. If development pursuant to the Policy H1(24) land allocation were to take place, I consider that the proposed dwellings would serve to define the entrance and provide a focus and a sense of place upon arrival. I see no reason why this would unacceptably compromise the setting of the housing development that would form the backdrop to the appeal site.

12. I acknowledge that the proposed development would not allow for the play or amenity space adjacent to the entrance of the site coming forward in line with the approved site layout for the 62-dwelling development. However, Policy H1(24) does not define where in that site allocation the open space is to be located, therefore there is flexibility as to its location, despite what the approved layout pursuant to planning permission Ref: 13/2038 has shown. Furthermore, I do not consider an area of open space at the entrance of the site to be a critical feature given that there is an existing area of open space adjacent the site entrance.

13. With regard to the four new dwellings potentially requiring a front boundary, the plans that support the proposal do not indicate that front boundaries are proposed as part of the development. There is insufficient information before me that would indicate that harm to the privacy of future occupiers would occur if front boundaries were not provided.

14. For these reasons, I conclude that the proposed development would not be visually harmful, either at the entrance to wider development relating to the Policy H1(24) local allocation or in the context of the existing character and appearance of the area. As such, the proposed development would not materially conflict with Policies H1(24), SP1, DM1 and DM9 of the Local Plan and the provisions of the Framework that seek, amongst other matters, development to be of high-quality design reflecting local vernacular and to fit unobtrusively with the character of the streetscene and/or its context. Furthermore, I do not consider the proposal would prevent the housing allocation under Policy H1(24) from coming forward, therefore, the proposal would not materially conflict with this policy.

Other Matters

15. With regard to the layout and appearance of the proposed development, the layout would not be dissimilar to that of existing development in the area. The dwellings would be finished in render and red brick, with the roof tile being red/orange clay plain tile. The Council has suggested a planning condition to ensure the development would be carried out in accordance with these details. The properties design with gable ends, hipped roofs and dormers in the roof pitch, along with forward projecting gables, would reflect the materials and various elements of design found within the existing development in the surrounding area. I consider the proposed development would be visually acceptable within the context of the existing character and appearance of the area.

16. In terms of landscaping, two groups of two trees are shown on the plans to be planted within the site frontage, along with the frontages being partly laid to lawn and partly hardsurface for parking. Five trees are shown to be planted along the rear of the appeal site boundary. The proposed landscaping would reflect that of existing residential gardens within the locality and I, therefore, consider it to be acceptable.

17. The distance of the proposal from dwellings at Redstart Avenue would be adequate to ensure no significant harm would result from loss of light or privacy. The proposed dwellings are orientated north south within the appeal site with outlook from the dwellings also being north south. This would prevent direct overlooking of the rear gardens of properties in Richmond Way. I note that there is a window proposed within the side elevation of the property at plot 4, however that window would serve an internal stairwell that is not a habitable room. Whilst the proposed development would be greater in height when compared to that of adjacent existing bungalows at Richmond Way, I consider the relationship of the proposed development would be visually acceptable as there would be sufficient separation between respective developments.

18. Local concern is raised to the acceptability of the site access and visitor parking provision, as well as hosting a shared access scheme. In considering the proposal Kent Highways has indicated that the access and parking arrangements to be acceptable. I have no substantive reason before me to come to a different view on this matter or that would lead me to question the highway safety of the shared access. The occupiers of four dwellings would not give rise to a significant increase in traffic in the locality. As such, the proposal would not significantly increase potential vehicle pollution.

19. I note concern is expressed to the site being located near to a nature reserve, but the site is not designated as part of that reserve. However, I have not been directed to any potential specific harm that might arise to the reserve as a result of the proposed development.

20. Drainage works have been submitted as part of the proposal. The Council has not raised any particular concern in respect of drainage and has suggested a planning condition to ensure that drainage would accord with a plan provided. On the available evidence I have no substantive reason before me to come to a different view on this matter.

21. I have been directed to a planning permission relating to extensions to The Lodge (Planning Ref: 16/503125) although I have not been provided with the details of that proposal. The proposal before me relates to a new development that is a very different scheme that can and should be considered on its own merits.

22. My attention has been drawn to the accuracy of the plans submitted, but I have no reason to doubt the information they show. With regard to the proposal potentially encroaching onto adjoining land that may be in different ownership, an applicant does not have to own a site when seeking planning permission. I note that the plans that support the planning proposal do not show 1 Redstart Avenue. Nonetheless, I have taken the location of that property into consideration in reaching my decision.

Conditions

23. I have considered the planning conditions suggested by the Council in light of paragraph 55 of the Planning Policy Framework and the advice in the Planning Practice Guidance. Having regard to this I have amended some of the wording of the conditions to aid their robustness.

24. In addition to the time limit condition for implementing the reserved matters and in the interests of certainty it is appropriate that there is a condition requiring the development to be carried out in accordance with the approved plans.

25. In the interests of the character and appearance of the area conditions are necessary relating to approved plans, external materials and landscaping scheme. For the same reason, as well as in the interests of the living conditions of existing and future occupiers, a condition relating to boundary treatments is necessary. To ensure highway safety and the free flow of traffic, a condition relating to accesses and parking provision is necessary. A condition relating to drainage is also necessary to prevent pollution and flooding.

Conclusion

26. Having regard to the above the appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE OF PLANNING CONDITIONS

1) The development hereby permitted shall begin no later than the expiration of two years from the date of this permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans: CH-P-001, 002, 003, 004, 005, 006, 007, 008, 009 A, 010, 011 A, D1659/101 Rev A, 102 and 104.

3) The external materials to be used in the development hereby approved, including those to be used for surfacing material, shall be those specified on drawings numbers CH-009 A and D1659-102 A.

4) Prior to any part of the development hereby granted reaching eaves level the size, design and siting of the boundary treatments between individual plots and those defining the site perimeters, shall be submitted to, and approved in writing, by the local planning authority. The approved boundary treatments shall be implemented prior to the first occupation of any of the dwellings hereby permitted and the boundaries shall be retained and maintained as per agreed for the lifetime of the development.

5) The landscaping scheme shown on drawing number CH-P-006 shall be implemented in the first available planting season following first occupation of the development hereby permitted. Any specimens that die or become diseased within 5 years of planting shall be replaced by a specimen/s of the same species, size and siting within the next planting season.

6) Prior to the first occupation of any of the dwellings hereby permitted, the accesses and on-site parking, as shown on drawing number CH-P-005, shall be implemented and retained for the lifetime of the development with no impediment to their intended use.

7) The drainage to serve the development hereby permitted shall accord with that specified on drawing number D1659/101 A. The drainage shall be carried out prior to the first occupation of any of the dwellings hereby permitted and shall be retained and maintained as such for the lifetime of the development.