
Appeal Decision

Site visit made on 25 August 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 4 September 2020

Appeal Ref: APP/U2235/W/20/3253307
3 & 5 Kings Road, Headcorn TN27 9QT

- 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 Hawkes and Mrs L Alexander against the decision of Maidstone Borough Council.
 - The application Ref 19/503532/OUT, dated 10 July 2019, was refused by notice dated 10 March 2020.
 - The development proposed is outline planning permission for the proposed demolition of two existing buildings and erection of four residential dwellings including details of access (all other matters reserved).
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Decision

1. I allow the appeal and grant outline planning permission for the proposed demolition of two existing buildings and erection of four residential dwellings including details of access (all other matters reserved) at 3 & 5 Kings Road, Headcorn TN27 9QT in accordance with the terms of the application, Ref 19/503532/OUT, dated 10 July 2019, subject to conditions 1) to 22) on the attached schedule.

Application for Costs

2. An application for costs was made by Mr R Hawkes and Mrs L Alexander against Maidstone Borough Council. This application is the subject of a separate Decision.

Main Issue

3. This is the effect of the proposal on the character and appearance of the Kings Road area of Headcorn.

Reasons

4. Policy DM1 of the Maidstone Borough Local Plan sets out the principles of good design in 14 numbered criteria, while at a national level, paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
5. The site is within the built-up area of Headcorn and whilst last in commercial use, it has residential uses opposite and to the west side, and there are such uses further away along the A274 towards the north and along Moat Road towards the west. The town centre with a good range of convenience and

specialist shops, bus services and a railway station, is only a short walk to the south across a pleasant open space. The principle of the change of use is not objected to by the Council, and Committee members had agreed with this by seeking 3 dwellings instead of the 4 proposed.

6. The site is not unattractive, even allowing for its current unused state, since the buildings presently in place have a somewhat domestic scale and architectural detailing, such as windows, eaves and pitched roofs, but the depth of the frontage building and the large gable door undermine this appearance as these latter features are highly visible from the road. There is however no imperative for their retention, as the overall effect is neutral at best.
7. Dwelling 'D' is shown on the indicative layout as occupying a space to the rear roughly the same as the present rear building although occupying a smaller footprint as shown by tape fixed to the wall and seen at the site inspection. Given the 'rights of access route' to a site to the rear, and allowing for the rectangular area to the roadside of this being omitted from the red-line site boundary, the indicative location, size and elevational treatment appears achievable and together with the allocated amenity space and parking, would make good use of land on that side of the access route.
8. To the west of the route is indicated a terrace of 3 dwellings noted as 'A', 'B' and 'C' from west to east, and these are shown as 2 storeys with rooms in the roof in addition. The resulting form would sit well within the street-scene as a replacement for the present single commercial block, and whilst the Council seek a building line replicating the current situation, this is not essential in view of the form and siting of neighbouring buildings and those opposite. Overall, the visual effect on the street-scene would be an improvement on the current situation and would not harm the character and appearance of the area, and the balance of front building line, amenity space, parking and space by the river can be left to reserved matters.
9. Looking then at the detail of Policy DM1 (the criteria subjects are abbreviated for brevity, but the full text has been considered);
 - i) *Design and access to local services*; There is good access to services and the indicative layout provides level access to occupiers and visitors.
 - ii) *Respond to character of the area and high-quality design*; The amount of built form would respond to the context, and the detailed design of up to 4 dwellings would be capable of satisfying this criterion.
 - iii) *High quality public realm*; Residential use would improve the site in a location close to the town centre, with public views enhanced.
 - iv) *Amenities of occupiers*; The amenities of existing occupiers would be safeguarded and improved when compared with a commercial use, and the intended occupiers would have good amenity space and outlook.
 - v) *Topography and natural character of the area*; The watercourse would be protected as would trees and there would be an increase in green space.
 - vi) *High-quality design and townscape*; The current commercial site with hardstanding would be improved, and this would respond to the area, with detailed design capable of meeting the quality sought.

- vii) *Orientation and energy sources*; There is space around the dwellings to promote natural lighting and passive solar gain, while the south facing roofs could be the site of integrated solar panels.
 - viii) *Biodiversity and mitigation measures*; Conditions are suggested, and the watercourse would be safeguarded.
 - ix) *Vehicular and pedestrian access*; Sightlines can be provided, and the access is as for the commercial use. The rights of access route is maintained.
 - x) *Safety and security*; There is natural surveillance of a parking area retained as part of another permission, and the street frontage is open.
 - xi) *Risk from flooding*; This requirement is met as the residential development will be within Flood Zone 1 with a reduction in the impermeable site coverage
 - xii) *Waste and recycling*; This requirement can be met at detailed design stage
 - xiii) *Vehicular and cycle parking*; This can be met.
 - xiv) *Flexibility*; the detailed design of floor layouts would be able to meet this requirement.
10. To conclude, the access can be provided safely and as the only detail applied-for now, is acceptable. The proposal of up to 4 dwellings of 3 bedrooms each would be able to be accommodated on the site while according with each of the criteria in Policy DM1. Outline permission should be granted on that basis.

Conditions

- 11. The Council suggested a set of conditions, including the standard outline ones listing the reserved matters and the timetable for their submission. It is appropriate to list the drawings for the avoidance of doubt, but only insofar as they relate to the access. The appellant has agreed the conditions, with the minor exceptions.
- 12. In view of the Reasons above with regard to the front building line, suggested condition 2) prohibiting 'any development' forward of the front elevation of the existing building is far too restrictive, and the balance of the front building line and the rear amenity, parking and buffer zone should be considered as a whole.
- 13. Suggested condition 5) on the treatment of any windows facing either number 1 Kings Road or other gardens is required, but the statement that windows should be fixed shut in addition to being obscure glazed is too restrictive, there are opening forms which would not prejudice privacy. It is reasonable to restrict further windows without control.
- 14. The Council's condition 7) seeks a fixed 8m buffer zone to the watercourse but this may be reduced in line with the Environment Agency's response and the Officer's Report to Committee, as recorded at item 216 in the minutes of 27 February 2020. 8m is not a fixed dimension and may be reviewed at reserved matters stage, the important matter at outline stage being to require a scheme for the riverbank.
- 15. The remaining conditions are necessary and reasonable, and meet the other tests in the Framework; surface water drainage details, samples of materials,

and arboricultural method statement, a land contamination scheme, bat roosting details and bat-sensitive lighting details, ecology enhancements and means of enclosure should be required, while the need for electric charging points, dust suppression, the removal of permitted development rights for enclosures at the frontage and to protect parking are reasonable to be attached at this stage.

16. Certain conditions need to be 'pre-commencement' but notwithstanding the appellant's agreement to the suggested conditions with only limited objection, formal agreement is not required under section 100ZA(8) in the case of outline permissions.

Conclusions

17. The effect of the current appearance of the site on the character and appearance of the area is neutral at best and certain features of the commercial use detract. Subject to the consideration of reserved matters, the development of 4 dwellings as proposed would not harm the character and appearance of the area and the site constraints of the access route and the watercourse do not indicate that the number of dwellings should be reduced. The proposal complies with Policy DM1 and would provide housing in a sustainable and accessible location, such that the presumption in paragraph 11 of the Framework applies.
18. Whilst information has been provided on the existence of the required 5-years supply of housing land, and in the delivery situation, these matters do not need to be put in the balance due to the proposal according with the relevant policy of the Development Plan, and the 5-year figure is not a maximum. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) Prior to any part of the development hereby approved reaching damp proof course details of a sustainable surface water drainage scheme (including its long-term maintenance) shall be submitted to and approved

in writing by the Local Planning Authority. The work shall be carried out before first occupation of any of the dwellings hereby approved and retained in accordance with the approved details at all times thereafter.

- 5) Prior to the development hereby approved reaching damp proof course samples of materials (which shall include those to be used for parking, turning and pedestrian walkways) to be used in the construction of all external surfaces of the development hereby approved shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using only the approved materials.
- 6) The layout and appearance details submitted pursuant to condition 1) shall include the windows located at;
 - (a) first floor to the west facing elevation of any dwelling abutting the boundary with 1 Kings Road and
 - (b) at first floor to the west facing elevation of the detached dwelling D as identified on drawing no: DHA/13772/03 D,
to be fitted with obscured glass (privacy level/grade 3 or higher) and shall be non-opening up to a minimum height of 1.7 m above internal floor level prior to first occupation of the relevant units and retained as such for the lifetime of the development.
- 7) Other than those shown on the drawings approved pursuant to condition 1), no additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the;
 - (a) the west facing first floor elevation of any dwelling abutting the boundary with 1 Kings Road and
 - (b) at first floor to the west facing elevation of the detached dwelling D as identified on drawing no: DHA/13772/03 D
or any replacement building in these locations.
- 8) Prior to the development hereby approved commencing (including demolition) a scheme for the provision and management of a buffer zone alongside the watercourse shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - (a) plans showing the extent and layout of the buffer zone.
 - (b) details of any proposed planting scheme (for example, native species of local genetic provenance and suited to the catchment character).
 - (c) details demonstrating how the buffer zone will be protected during development and managed over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.
 - (d) details of any proposed footpaths, fencing, lighting, etc.

The development shall be carried out in accordance with the approved scheme prior to first occupation of the approved development. The buffer zone shall be kept free from built development including lighting, domestic gardens and formal landscaping except as may be approved in connection with the management scheme.
- 9) Landscaping details submitted pursuant to condition 1) above shall be designed using the principles established in the Council's adopted

Landscape Character Assessment 2012. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme. The provision of a wet woodland landscaped area shall be explored as part of the formation of the landscaping scheme.

- 10) The approved landscaping associated with individual dwellings shall be in place at the end of the first planting and seeding season following occupation of the relevant individual dwelling. Any other communal, shared or street landscaping shall be in place at the end of the first planting and seeding season following occupation of the final unit. Any trees or plants, which, within a period of 5 years from the occupation of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority give prior written consent to any variation.
- 11) The development hereby approved shall not commence (including demolition) until details of an Arboricultural Method Statement (which shall include tree protection measures) prepared in accordance with the current edition of BS 5837:2012 have been submitted to and approved in writing by the Local Planning Authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the Local Planning Authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.
- 12) The parking/turning areas approved pursuant to condition 1) shall be completed before first occupation of any of the dwellings hereby approved and shall thereafter be kept available for such use. No development, whether permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them or restricting the emergency access through the site.
- 13) The development hereby permitted shall not be commenced (excluding demolition) until the following components of a scheme to deal with the risks associated with contamination of the site shall have been submitted to and approved, in writing, by the Local Planning Authority:
 - (a) A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses

- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

(b) A site investigation, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

(c) A Remediation Method Statement (RMS) based on the site investigation results and the detailed risk assessment. This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The scheme shall thereafter be implemented as approved.

- 14) A Closure Report shall be submitted upon completion of the remediation works. The closure report shall include full verification details as set out in point (c) of Condition 13). This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean; Any changes to these components require the express consent of the Local Planning Authority.
- 15) Prior to the commencement of development (including demolition) hereby permitted details shall be submitted to and approved in writing by the Local Planning Authority demonstrating the bat roosting features detailed within the mitigation strategy will be incorporated into the new buildings and surrounding trees. The full bat mitigation strategy, as detailed in the Bat Emergence Survey Report dated the 22nd September 2019, along with measures to enhance the site for bats shall be implemented in full, prior to first occupation of the approved dwellings and shall be thereafter retained.
- 16) The ecological enhancements and mitigation measures recommended and specified in the preliminary Ecological Appraisal dated July 2019 shall be carried out as specified in accordance with a timetable to be submitted to and approved in writing by the Local Planning Authority.
- 17) Prior to any part of the development hereby approved reaching damp-proof course a bat sensitive lighting plan for the site boundaries shall be submitted to and approved in writing by the Local Planning Authority. Lighting shall only be installed in accordance with the approved details and retained as such for the life of the development.
- 18) Prior to any part of the development hereby approved reaching roof level details of all means of enclosure shall be submitted to and approved in writing by the Local Planning Authority to include gaps for the passage of wildlife. The development shall be carried out only in accordance with the approved details.
- 19) Other than those approved as part of the preceding condition and notwithstanding the provisions of Schedule 2, Part 2, Class A of the Town

and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no fences, gate or walls shall be erected within the curtilage of any dwelling house forward of any wall of that dwelling house which fronts onto a road.

- 20) Prior to first occupation of each dwelling a minimum of one electric vehicle charging point shall have been installed for the benefit of the occupier of that dwelling with the charging point thereafter retained for that purpose.
- 21) Prior to the commencement of development (including demolition), a programme for the suppression of dust during the construction of the development shall be submitted to and approved in writing by the Local Planning Authority. The measures approved shall be employed throughout the period of construction unless any variation has been approved by the Local Planning Authority.
- 22) The development hereby approved shall be carried out in accordance with the following plans, insofar as the details shown concern the access: DHA/13772/H-01 rev P1 and 03 rev D.