



Appeal Decision

Site visit made on 13 and 26 July 2021

by Victor Callister BA(Hons) PGC(Oxon) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2021

Appeal Ref: APP/U2235/D/20/3261696

86 Hardy Street, Maidstone, ME14 2SJ

- 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 Paul Middleton against the decision of Maidstone Borough Council.
 - The application Ref 20/502756/FULL, dated 22 June 2020, was refused by notice dated 27 August 2020.
 - The development proposed is a garage and 1 bedroom annexe.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposal would appear as a subordinate residential annexe and the effect on the character and appearance of the local area; and
 - The effect on the living conditions of residential occupiers of No.86, with reference to privacy.

Procedural Matters

3. Since Maidstone Borough Council's (the Council) refusal of the application Ref 20/502756/FULL the Government published a revised National Planning Policy Framework. In line with Planning Practice Guidance, my consideration of the issues of this appeal has, therefore, been on the basis of the National Planning Policy Framework (2021) (the Framework) and the Maidstone Borough Local Plan (2017) (the Local Plan). Neither the appellant nor the Council have indicated that this is prejudicial to their cases.

Reasons

Character and Appearance

4. The appeal site is a parking area located in the rear of the garden of 86 Hardy Street (No.86), a two-story end of terrace residential building on the corner of Hardy Street at the junction with John Street. The area is an established residential area of mainly Victorian and Edwardian two storey palisaded terraced houses, close to the centre of Maidstone.

5. No.86 appears from my site visit to be in use as a small house in multiple occupation. The appeal site forms part of its rear garden area and is accessed through a gate from John Street.
6. The proposal is for a detached two storey building with a garage with storage area and garden room at ground level, with a completely separate and self-contained one bedroom flat on the first floor. Both the garage and first floor flat would be accessed from separate doors fronting directly onto John Street in the street facing gable end. A storage area associated with the garage would be accessed from the garden to the rear of No.86. This would result in the proposed building appearing from the street as a small, detached house with integral garage, with no apparent visual or functional connection with No.86.
7. As well as its own street entrance, the proposed self-contained flat has its own bathroom and kitchen/living/dining area and, notwithstanding the potential use of the garden and proposed separate garden room, would not be interdependent with any of the facilities provided in the main house at No.86. When the proposed flat is considered alongside the proposed garage that could also be used completely independently of the main house, the proposal would not appear or function as a subordinate residential annexe and would appear to have a very limited functional connection with the main house at No.86, which would be limited to the potential use of the remaining garden.
8. Notwithstanding the various design guidance that the appellant has brought to my attention, I have found that the proposal would appear as a small, detached house, constructed on the parking area that forms part of the existing, not particularly extensive, rear garden, rather than as a garage with a separate residential annexe, subordinate to No.86. Further, the proposed fenestration, external finishes and shallow roof profile contrast significantly with No.86 and with the street frontage of properties in the local area, which demonstrate a more traditional use of brick, fenestration and overall Victorian and Edwardian design cues.
9. For these reasons, the proposal would be discordant with the host dwelling, incongruous within the context of the street scene of John Street and have an undue prominence that would cause significant harm to the character and appearance of the local area. This would be contrary to Policies DM1 and DM9 of the Local Plan and Paragraph 130 of the Framework, which collectively seek to ensure that such development is of high-quality design, adds to the overall quality of the area, respects the appearance and character of the local area and fits unobtrusively within its context

Living Conditions of Residential Occupiers of No.86

10. As I have identified that the proposal would not appear or function as a subordinate residential annexe, I have considered effect on the living conditions of the occupiers of No.86 accordingly.
11. The side elevation of the proposed building that faces towards No.86 would be approximately 5.2 metres from its rear elevation. The windows in this side elevation of the proposal would serve the first-floor bedroom area of the proposed first floor residential accommodation and the staircase to it. Whilst it would be reasonable to condition the proposed stair window to be obscured glazing, this would not be true of the bedroom window, which would look directly onto the rear garden of No.86 and towards its rear rooms. The

proximity of these views would lead to direct and intrusive overlooking that would unduly impact on the privacy of the occupiers of No.86.

12. For these reasons the proposal would cause significant harm through loss of privacy to the living conditions of the occupiers of No.86. This would conflict with policies DM1 and DM9 of the Local Plan and Paragraph 130 of the Framework, which seek to ensure that developments respect the amenity of neighbouring residents including by safeguarding their privacy.

Other Matters

13. Although there is not a proposal for a separate dwelling before me, I find that the proposal would not appear or function as a subordinate residential annexe. Therefore, I am not satisfied that the application of a suitable condition requiring the proposed annexe to be used for purposes ancillary to the residential use of the dwelling would be in line with Paragraph 55 and 56 of the Framework, in that it would not be relevant to the form or function of the development proposed and would not result in an otherwise unacceptable development being acceptable.
14. The appellant has drawn my attention to housing need. Notwithstanding the need for additional housing being a national issue, the appeal relates to the creation of an annexe to an existing dwelling and not the creation of an additional one, which I have considered on its own merits, and I have afforded this limited weight in my considerations.

Conclusion

15. For the reasons given above the appeal is dismissed.

Victor Callister

INSPECTOR