



Appeal Decision

Site visit made on 7 December 2021

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 December 2021

Appeal Ref: APP/U2235/W/21/3274672

85 Upper Stone Street, Maidstone ME15 6HE

- 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 Olufote against the decision of Maidstone Borough Council.
 - The application Ref 20/504166/FULL, dated 8 September 2020, was refused by notice dated 6 January 2021.
 - The development proposed is the construction of a new build flat development comprising of 6 x self-contained unit(s).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised Framework¹ was published by the Government between the determination of the planning application and the appeal coming before me. It does not raise any new considerations in relation to this appeal.

Main Issues

3. The main issues are the effect of the proposed development on a) the living conditions of future occupants; b) the living conditions of neighbouring occupiers; c) access for service and emergency vehicles; and d) the safeguarding of waste facilities.

Reasons

Living Conditions – Future Occupants

4. The proposed building would be sited close to the flank wall of the commercial building immediately to the south of the site. This existing wall exceeds the height of the proposed building. Although the proposed building would not be parallel to this wall, even at its furthest point there would be a relatively small gap between the wall and the proposed building. The building is said by the appellants to have been designed to prevent overlooking. However, given the height of the flank wall and its proximity to the south facing windows, the southern outlook for future residents would be significantly compromised. This would be particularly so for the occupants of units 2 and 4.
5. Having regard to the above factors, I find that the proposed development would provide inadequate outlook for future occupants. The flank wall of the

¹ National Planning Policy Framework (2021)

neighbouring building would represent a harmful, overbearing presence in this instance.

6. Having regard to the proposed site layout, vehicles entering and exiting the site would need to undertake turning manoeuvres on site, particularly if they wish to avoid reversing out onto the busy A229. This would take place in close proximity to the windows of the ground floor units, which would not have the benefit of any defensible space outside their front windows. As such, vehicle movements would be particularly noticeable to these occupants, especially in the evenings when headlights from manoeuvring vehicles are likely to be an added distraction. It seems to me that the activity generated in this regard would likely to entail a level of disturbance which could result in occupants having to keep windows closed or blinds drawn. As such, the proposed layout would, in my view, be constrained to a degree that it would be intrusive to the occupants of the ground floor units.
7. The site layout also includes a limited footpath, which is positioned directly outside ground floor windows. The footpath also has a restricted width in places and a route which, together with the lack of landscaping or pedestrian refuge, creates the potential for pedestrian/vehicular conflict. There are further limitations of the layout, such as difficulties in accessing cycle parking and the bin stores if the parking bays are all occupied. These are further indications that the scale of development exceeds what the site can comfortably accommodate, and which would be detrimental to the living conditions of future occupiers.
8. Overall, the proposed development would result in poor living conditions for future occupiers. As such, the proposal would be contrary to Policies DM1 and DM9 of the Local Plan which, together with Paragraph 130 of the Framework seek, amongst other things, to ensure developments provide a high standard of amenity for future users.

Living Conditions - Neighbours

9. The proposed building would, according to the Council, be separated from the rear of the former pub building by 6m. The appellant does not dispute this figure. Although the proposed western elevation would not contain any windows, there are existing windows in the rear elevation of the former pub, which would face the western elevation of the proposed building. These windows currently serve a number of flats.
10. Where currently these existing windows offer occupants an east facing, open outlook, the proposed development would reduce this to the blank side wall of the proposed building, only a few metres away. The second floor of the proposed building would be set in slightly from the sides. However, the height and depth of the building, in such close proximity to the existing windows, would represent an overbearing presence to existing occupants.
11. Overall, the size and position of the proposed building in relation to the former pub building would, it seems to me, diminish the outlook of, and represent an overbearing presence to, the existing occupants. Accordingly, the proposal would be harmful to the living conditions of these existing neighbours.
12. As such, the proposal is contrary to Policies DM1 and DM9 of the Local Plan which, together with Paragraph 130 of the Framework seek, amongst other

things, to ensure developments provide a high standard of amenity for existing users.

Access

13. The Council is concerned that although the point of access is not being altered, there is a lack of detail to demonstrate that there would be sufficient access to the site for service and emergency vehicles. The Fire Service did not respond to the Council's consultation on the planning application and this lack of response appears to be the basis of the reason for refusal.
14. However, the Highway Authority did respond to the consultation process on the planning application. The Highway Authority, which would have considered the effect of the scheme more generally on the adopted highway, did not, subject to the imposition of certain conditions, raise an objection to the scheme.
15. The appellant has not directly addressed this issue in their Statement. However, I have no substantive evidence before me to suggest that the access arrangements would cause problems for service and emergency vehicles and no objection from the Highway Authority. Accordingly, I find that the proposal would accord with Policy DM1 of the Local Plan which, amongst other things, seeks to ensure developments provide safe access arrangements.
16. The reason for refusal also refers to Policies DM9 and DM23 of the Local Plan. However, these policies appear to relate to parking rather than access. Therefore, I do not consider them relevant in this instance to my decision.

Waste Facilities

17. The appeal site is said by the Council to be within 250m of a waste recycling site. In accordance with the provisions of Policy DM8 of the Minerals and Waste Local Plan² the appellant is therefore required to demonstrate that the development has addressed matters such as sound insulation, air and odour quality protection etc., in order to ensure the proposed development does not prejudice the continuation of the waste facility.
18. The appellant has not specifically addressed this matter. In the absence of such detail or evidence to the contrary, I must conclude that the proposal is unable to comply with Policy DM8 of the Minerals and Waste Local Plan which, amongst other things, seeks to safeguard existing waste management facilities.

Other Matters

19. In support of the scheme, the appellant points to such factors as the retention of trees, the omission of windows on the west and east elevations and the second-floor terraces having obscure glazing. However, these factors would represent a lack of harm which would accordingly be neutral in any balance.
20. I acknowledge that the proposal is a revised scheme, designed to overcome the previous concerns raised by the Council, which were similar to those raised in relation to this appeal. The changes principally reduce the scale of built form as well as the number of units and provide aboricultural information in respect of existing trees on site. However, the changes are not sufficient to overcome the harm which would be caused to the living conditions of future occupants and existing neighbours in particular.

² Kent Minerals and Waste Local (2016)

Planning Balance and Conclusion

21. The proposal would harm the living conditions of future occupiers and of existing neighbours. There is an absence of evidence to demonstrate that the proposal would not prejudice the nearby waste facility. Accordingly, the proposal is contrary to the development plan and Paragraph 130 of the Framework.
22. I acknowledge the Government's objective to significantly boost the supply of housing. There is also broad support for windfall sites and the efficient use of land. The proposal would involve the addition of six new residential units. Therefore, I could attach a moderate amount of weight to the provision of these additional units. There would be other benefits associated with the development, but these would be affected by the scale of the proposal and some would be time limited. However, the weight I could attach to the benefits of the scheme would, in any event, not outweigh the harm and conflict with the development plan that I have found, and to which I ascribe substantial weight.
23. The fact that I have found in the appellant's favour with regard to the site access does not outweigh the totality of the harm I have identified and does not alter my conclusions.
24. There are no material considerations that indicate the decision should be made other than in accordance with the development plan taken as a whole. Therefore, for the reasons given, I conclude that the appeal should not succeed.

Stewart Glassar

INSPECTOR