



Appeal Decision

Site visit made on 6 January 2022

by David Prentis BA BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12TH January 2022

Appeal Ref: APP/U2235/W/21/3277959

The Packhouse, Queen Street, Paddock Wood TN12 6PJ

- 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 Money Investments Ltd against the decision of Maidstone Borough Council.
 - The application Ref 20/503561/FULL, dated 3 August 2020, was refused by notice dated 29 January 2021.
 - The development proposed is the construction of 2 detached dwellings.
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Decision

1. The appeal is dismissed.

Main issues

2. The main issues are:
 - the extent to which the development would be subject to risks of flooding;
 - the effect of the proposal on the character and appearance of the area; and
 - the extent to which the proposal would contribute to a sustainable pattern of development.

Reasons

Flood risk

3. The proposal is located in a generally low-lying area, which is at risk of flooding. The Flood Risk Assessment (FRA) submitted with the application identifies that flooding from rivers is the most significant cause of flood risk. The nearest main river is the River Teise, which is about 1200m east of the site. However, flood events in this area are also affected by the confluence of other rivers at Yalding, about 5km to the north. The site is within an extensive area identified in the Environment Agency (EA) Flood Map as Flood Zone 3. Such areas are characterised as having a high probability of flooding, with an annual probability of river flooding greater than 1%. The EA's historic flood event map shows that the site itself, together with significant parts of Queen Street, were flooded in December 2013.
4. The proposal is for two houses. It is therefore regarded as "*more vulnerable*" in the Flood Risk Vulnerability Classification contained in Annex 3 to the National Planning Policy Framework (the Framework).

5. Maidstone Borough Local Plan (MBLP) Policy DM 1 sets out principles of good design, which include avoiding inappropriate new development within areas at risk from flooding or mitigating any potential impacts of new development within such areas where mitigation measures are integral to the design of buildings. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. It goes on to set out the need for a sequential test, the aim of which is to steer new development to areas with the lowest risk. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
6. Although the Framework goes on to set out a further test, the exception test, that is only pertinent if it is not possible for development to be located in areas with a lower risk of flooding. In this case the appellant has not addressed the sequential test, either in the FRA or elsewhere. Consequently, there is no evidential basis on which I could conclude that the sequential test would be met. The proposal therefore conflicts with the Framework in this respect.
7. The appellant argues that the EA has not objected to the proposal. Whilst that may be so, the response from the EA does not address the sequential test and makes clear that various matters, including the adequacy of rescue or evacuation arrangements, are not within its remit. The appellant points out that the floor levels of the houses would be above the predicted flood level (including an appropriate allowance for climate change) and that the design would include flood resilience measures. It is also suggested that occupiers of the proposed houses should have sufficient warning of a flood event, by way of the EA's flood line, to leave the premises safely.
8. I accept that the buildings themselves could be made resilient to flooding, such that anyone remaining inside would be reasonably protected from the predicted flood event. However, the needs and vulnerabilities of future occupiers cannot be known. There could be many reasons why such occupiers may be unable to leave in advance of a flood and/or may need assistance or evacuation during a flood. The closest area of Flood Zone 1 is around 800m to 900m to the south, along Queen Street. The EA advises that all the roads leading to the site could be impassable to most vehicle types during a flood event, such that safe access/egress would not be possible.
9. This advice is consistent with what I saw on site. Queen Street is a narrow rural lane and there are steeply-sided ditches beside the road at various points. I consider that this would be a hazardous environment during flood conditions. Taken together with the long distance to dry land, there would be unacceptable risks to any future occupiers attempting to leave the proposed houses during a flood event. There would also be additional risks to emergency service personnel who may be required to reach the site.
10. In my view the proposed mitigation measures would not be sufficient to avoid an unacceptable level of risk to future occupiers and to those who may be called upon to assist them in a flood event. The proposal would therefore be in conflict with MBLP Policy DM 1. It would also be in conflict with the Framework, for the reasons given above.

Character and appearance

11. The site is within a predominantly agricultural rural area. Queen Street has the character of a rural lane with verges, ditches and hedges on either side. There is also scattered residential development along this part of Queen Street, mostly on the western side.
12. The finished floor level of the proposed houses would be raised well above existing ground levels in order to mitigate flood risks. Consequently, the eaves height would be well above that of the adjoining dwelling at Little Fowle Hall Cottage. This would be compounded by the deep floor plan which would result in a significantly greater height of the roof ridge above the eaves. The combined effect would be a roof form which would appear unduly tall and bulky in comparison with the simple ridged roof of the adjoining cottage and other vernacular houses further along the lane.
13. The proposal is for two houses, each of about 16m in width, in a symmetrical arrangement. The overall scale of this composition, combined with the height and bulky roof form described above, would result in an unduly dominant form of development that would be out of scale with nearby houses. Each of the houses would have a two-bay car port, with first floor accommodation above. To my mind this would result in a large and poorly proportioned void at ground floor level which would give each house an awkward appearance.
14. The layout would feature sweeping driveways with extensive areas of hard-standing. This would create a suburban feel in contrast with nearby houses, which have a closer relationship to the rural lane.
15. I take account of the proposed use of traditional materials and the opportunities for new planting. These matters could be secured by conditions. Nevertheless, my overall assessment is that the design would do very little to maintain, still less enhance, local distinctiveness as required by Policy DM 30. I conclude that the proposal would be harmful to the character and appearance of the area. It would conflict with policies SP 17, DM 1, DM 5 and DM 30 insofar as those policies seek to protect the character and appearance of the countryside. It would also conflict with the Framework, which states that good design is a key aspect of sustainable development. The proposal would not be sympathetic to local character and would not represent good design, as that term is used in the Framework.

Sustainable pattern of development

16. The spatial strategy for the borough is contained in MBLP Policy SS 1 which states that the Maidstone urban area will be the principal focus for development. The plan describes Maidstone as the largest and most sustainable location for development. The policy makes provision for some housing development in rural service centres and larger villages. However, the appeal site is in the countryside, outside any defined settlement boundary. In such locations, Policy SS 1 states that protection will be given to the rural character of the borough. For the reasons given above, the proposal would not be consistent with that policy.
17. Yalding Parish Council has commented that the site does not have good access to public transport and is remote from local services and facilities. This description is consistent with what I saw on my site visit. I consider that future

occupiers would be heavily reliant on private motor vehicles for most day to day needs. The Framework notes that opportunities to maximise sustainable transport solutions will vary between urban and rural areas. However, even taking that into account, I consider that the appeal scheme would not accord with the Framework's aim of actively managing patterns of growth in a way that supports the objectives of sustainable transport.

18. The appellant argues that the proposals include electric vehicle charging points, solar panels and tree planting. These measures would contribute to reducing reliance on less sustainable energy sources and may increase the biodiversity value of the site to some extent. However, measures such as these are typical features of most modern residential developments. There is no evidence that any benefits would be so great as to outweigh the disadvantages of the location, in terms of its poor accessibility to local services and facilities.
19. The site was previously occupied by a building in commercial use. This has since been demolished and most of the site comprises concrete hard-standing. It is therefore previously developed land, or brownfield land, for the purposes of the development plan and the Framework. Policy DM 5 supports the use of such land for housing in the urban area, rural service centres and larger villages. However, it states that the residential redevelopment of brownfield sites in the countryside will only be permitted exceptionally, where the proposal would result in significant environmental improvement and the site is, or can reasonably be made, accessible by sustainable modes to Maidstone urban area, a rural service centre or a larger village.
20. Although the site is vacant, it is partially screened by vegetation in views from Queen Street. There are hoardings along the northern boundary which can be seen from an adjoining drive but these do not have much of an impact on the wider area. Consequently, the current condition of the site has only a limited impact on the character and appearance of the area. For the reasons given above, I consider that the proposed development would be harmful to the character and appearance of the area. It follows that the proposal would not result in an environmental improvement. Moreover, the site is not accessible by sustainable modes of transport to a rural service centre, larger village or equivalent settlement¹. Nor is there any evidence that it would be made so. The proposal would not therefore meet the criteria of Policy DM 5.
21. I conclude that the proposal would not contribute to a sustainable pattern of development. It would conflict with MBLP Policies SS 1 and DM 5.

Other matters

22. A concern has been raised by the owner of an access drive, part of which would be used to gain access to the proposal. However, that would be a private matter to be resolved between the parties concerned. The grant of planning permission would not confer any rights of access that do not already exist.
23. Representations have been made in support of the appeal on the basis that a residential scheme would be preferable to the development of industrial units on the site. However, there is no such scheme before me. It is not my role to comment on the merits of other proposals that have been (or may be)

¹ The nearest settlement is Paddock Wood which is not covered by the MBLP designations because it is in an adjoining local authority area.

considered by the local planning authority. I have decided this appeal on its own merits.

Conclusion

24. For the reasons given above, I conclude that the proposal would be contrary to the development plan. It would also be contrary to the Framework. I have not identified any other considerations that indicate a decision other than in accordance with the development plan. Accordingly, the appeal should be dismissed.

D Prentis

Inspector