



Appeal Decision

Site visit made on 14 February 2022

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2022

Appeal Ref: APP/U2235/W/21/3277503

Land adjacent to 31 Willington Street, Maidstone, Kent ME15 8JR

- 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 Legacy Homes against the decision of Maidstone Borough Council.
 - The application Ref 21/501089/FULL, dated 13 March 2021, was refused by notice dated 10 May 2021.
 - The development proposed is erection of a two-storey, three-bedroom, detached dwelling with parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the character and appearance of the area.

Reasons

3. The appeal site is the majority of an unfenced, undeveloped parcel of land in a mainly residential area of Maidstone. It is grassed and contains some trees with a hedgerow along one side and across part of the front. It has the appearance of a verge on the corner between a public footpath and the end of a row of houses in Willington Street and its junction with Biddenden Close, which is a residential cul-de-sac. Its openness and verdant appearance is locally distinctive in an otherwise mainly continuously built-up frontage along this part and side of the street and on the entrance into the built-up part of the close. The proposal would develop the site with a detached house.
4. In size and siting the house would continue the regimented building line and general form of houses in the street south of the close. However, the front elevation would face the close. As a result, a wide side elevation would face the street, with a substantial proportion of blank, unrelieved brickwork. This would fundamentally be at odds with the articulated front facing arrangement of the houses in this part of the street. Even if taken in the context of the close, the house would nonetheless be incongruous with the existing pattern of residential development which at this point is only on the north side and overall, the cul-de-sac has a denser, more convoluted siting and arrangement of dwellings.
5. Furthermore, extending the row of two-storey houses in the street towards the two-storey houses in the close, would significantly reduce the gap between these houses. This would unduly erode spaciousness in both streetscenes and

lead to an undesirable 'pinch-point' and consolidation of built form. In addition, the house would be centrally placed within the site. Due to its tear-drop shape, the plot would rapidly narrow to a point in front and behind the house. It would, therefore, occupy a disproportionate (in area) part of the plot and the shape of the front and, especially, rear garden would be manifestly out of keeping with the size and layout of gardens in this row of houses in the street south of the close, particularly for a large family house.

6. I appreciate that some gardens in the close, or in the street north of the junction are more comparable in size or layout to the proposal, including at the opposing 'corner plot' that I have been referred to¹. However, even if these are 3-bedroom family sized dwellings they are not the prevailing arrangement of gardens in the immediate area or, for the reasons explained above, not an appropriate comparison being north of the junction whereas the development is south of the junction and in a distinctly different arrangement and pattern of residential built form.
7. Much of the grassed area would be lost and two trees removed. These are in 'fair' physical condition, 14m and 15m tall with an estimated life span of between 20-40 years². They are not covered by a Tree Preservation Order³, or protected by virtue of being in a Conservation Area and the appellant suggests are not of sufficient 'quality' to be retained. However, they have significant individual and collective presence in the streetscene and clearly make a positive contribution to visual amenity now and would otherwise likely do so for an appreciable period of time. The Framework recognises that trees make an important contribution to the character and quality of urban areas and it seeks to retain existing trees wherever possible. Given the relatively narrow width of the site the proposal would also likely result in the loss of an appreciable segment of the hedgerow, either due to the siting of the rear elevation of the house or to allow for adequate pedestrian access around and behind it.
8. The loss of this grassed area (with a large part of the front garden used for parking), hedgerow and these trees would have a significant unacceptable negative impact on local visual amenity. In conjunction with the proposed house, it would largely obliterate an established and locally valued and meaningful sense of place. The proposal would also deny any formal or informal use of the land, or some upkeep of it, by the public; albeit that while this is not currently prohibited, I appreciate it may not persist in the future.
9. While the retained triangle of land in one corner next to the front garden would remain grassed and with a tree, and the front garden would retain two trees, these areas would be remnants and would not, therefore, provide satisfactory mitigation or compensation for the substantial loss of landscaped visual amenity space overall. Nor would this impact be off-set by the rear garden which though may remain mainly open and grassed, and include a tree, would be enclosed by tall screen fencing. These characteristics of the site would therefore no longer have any meaningful visual context with the streetscene and in any event, likely be distinctly domestic in nature rather than the present appearance of the site as semi-public open space. Moreover, the proximity of retained trees on the site to the house or overshadowing a significant part of

¹ As also shown in Appendix A, B and C of the appellant's appeal statement.

² Tree Survey Report, March 2021 – prepared by Beem Associates.

³ An interested party has referred me to an alleged 'temporary preservation order', but no details of any such order have been provided, including by the Council.

both front and rear gardens or some windows, means there would be a realistic prospect of future tree removals or significant pruning. This would also be to the detriment of the visual amenity of the area.

10. There is no apparent permanent structure on the land (or therefore the site) and no evidence that there ever was. Accordingly, I am unable to agree that the site is, by definition⁴, previously developed 'brownfield' land, as the appellant intimates. Furthermore, while the land may be 'surplus' to the owner's requirements, it plainly nonetheless has a beneficial passive purpose and function, intended or not by the owner, as outlined above. I also appreciate that the trees could be removed and the site fenced by the owner in any event, but there is no evidence of any specific imminent intention. Even if either or both eventuality occurred, the resulting condition of the site would not overcome or address the adverse impacts of the development overall.
11. Taking all of the above into account, I find that the development would cause significant harm to the character and appearance of the area. It would therefore conflict with the Council's Local Plan⁵ (LP) Policies SP1, DM1, DM3 and DM9. These policies include that development should be on appropriate urban sites, contribute positively to the locality's distinctive character and retain green spaces. Development should also be high quality in design and appearance and respond positively to the streetscene having regard to siting, layout, articulation and site coverage and sensitively incorporate natural features such as trees and hedges with significant amenity value or that are worthy of retention.

Other Matters

12. I saw that the proposal would not interfere with adequate visibility splays or sightlines at the junction. The Highway Authority⁶ (the HA) did not object for this reason or to the position of the site access relative to this junction. Nor did the Council. In the absence of any objective evidence to the contrary, I have no reason to find otherwise. The HA, or the Council, have separate powers to control on-street parking, including by non-residents.
13. Even with a site management plan, some construction works can adversely affect the living conditions of existing residents. It is, though, an almost inevitable consequence of development and would be temporary in duration. The effect of development on property values and private views are not material planning considerations. Due to its design, siting and distance to nearby dwellings, and that it would be in an urban, residential area, the proposal would have no unacceptable adverse impact on the living conditions of the occupiers of nearby dwellings. Whether or not, if permission were granted, the development could be implemented due to land ownership or the intentions of the owner, would be a private matter between the respective parties.
14. Both main parties have referred to a fresh planning application made to the Council by the appellant for similar development at the site, though I have not been advised of any outcome. I have, in any event, considered the appeal and the current proposal on its individual planning merits.

⁴ National Planning Policy Framework (the Framework) - Annex 2: Glossary

⁵ Maidstone Borough Local Plan, October 2017

⁶ Kent County Council

Planning Balance

15. The Council states that it is able to demonstrate a five year supply of housing land and meet the Government's Housing Delivery Test. The appellant does not dispute this and I have no reason to disagree. In terms of benefits, the provision of a house on a site in Maidstone would make a small contribution to housing supply in the borough. This would support the objective of the Framework to significantly boost the supply of homes. The social, economic and environmental benefits associated with building and occupying the house are factors which, commensurate with the modest scale of the proposal, carry moderate weight in the scheme's favour.
16. Suitable provision could be made for the storage of refuse and re-cycling and the house would incorporate renewable and low carbon energy technologies for heating and lighting, passive design, be well-insulated and reflect the Code for Sustainable Homes and a BREEAM 'very good' standard. Security measures could be incorporated to reduce crime. Aside from the grass, trees and hedgerow the site is not identified as having any other particular biodiversity value and it could be enhanced in this regard. There is no evidence of adverse ground or surface water conditions. The absence of harm, or compliance with the Council's development plan and the Framework, in these regards are therefore neutral factors in my decision.
17. However, while the Framework recognises that small windfall sites and efficient or effective use of land, particularly on suitable sites within existing settlements, can make an important contribution to meeting housing requirements, it also seeks to achieve well-designed places. In this regard, development should add to the overall quality of an area, be visually attractive in architecture and layout, sympathetic to local character, including the surrounding built environment and landscape setting, and maintain a strong sense of place using the arrangement of streets, spaces and building types to create distinctive places to live. It also promotes social interaction and use of shared spaces and seeks to protect open space. Whereas the development would cause significant harm to the character and appearance of the area.
18. The proposal would conflict with the Council's relevant development plan policies and diminish the Council's objectives in these respects. These are consistent with aims of the Framework to balance meeting housing needs with the objectives of sustainable development. Consequently, I give substantial weight to these considerations.
19. Notwithstanding that the benefits would be aligned with the Framework; the adverse impacts of the proposed development would outweigh the benefits.

Conclusion

20. The proposal would not accord with the development plan overall. There are no other material considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given above I conclude that the appeal should not succeed.

Robin Buchanan

INSPECTOR