



Appeal Decision

Site visit made on 21 July 2022

by Paul Martinson BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 August 2022

Appeal Ref: APP/A2280/W/22/3295274

1 Pepys Way, Strood, Rochester ME2 3LH

- 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 Alibek Akpinar against the decision of Medway Council.
 - The application Ref MC/21/3392, dated 23 November 2021, was refused by notice dated 14 January 2022.
 - The development proposed is described as: 'Re submission of application MC/21/1823. Construction of a two storey side extension, part single storey, part two'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission¹ was granted in November 2019 for the construction of a two storey extension to the side and rear of the appeal property with a single storey extension to the front and excavation works to the basement level to create 4 flats. Prior to the submission of the appeal application, planning permission² was refused for a revised scheme to facilitate the construction of 9 flats. The current scheme, for 7 flats, represents a further revision of the 2019 approval which remains extant.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties;
 - the effect of the proposed development on highway safety; and
 - the effect of the proposed development on biodiversity with particular regard to the Thames Estuary and Marshes and the Medway Estuary and Marshes Special Protection Areas (SPAs).

Reasons

Living Conditions

4. The appeal site is a former retail unit and first floor residential flat attached to an existing dwelling on the residential street of Pepys Way. The appeal site lies to the north of an existing garage block that fronts Pepys Way. There is an

¹ MC/19/0575

² MC/21/1823

access to the side of the building serving a detached garage to the rear of the property. The dwelling has a sizeable garden to the rear which backs onto an access lane that runs between the rear of properties along Broom Hill Road and Pepys Way.

5. The lane is narrow with an unbound surface. Whilst there are garages to the rear of properties with access onto the lane, my impression was that traffic levels along here were very low. This assessment is reinforced by the presence of well-used driveways capable of accommodating at least two cars to the front of almost all properties with access from the rear lane.
6. Pepys Way and its neighbouring street Broom Hill Road, predominately consist of two storey semi-detached dwellings. The area has a distinct residential character and the representations received from local residents state that the area is predominantly single family housing. Having regard to my observations on site and the evidence before me, nothing I have seen would lead me to conclude otherwise. Consistent with the residential character my impression on the site visit was that background noise levels were low. Residents would reasonably expect these existing noise levels to be protected.
7. The appeal proposal involves the addition of sizeable extensions to the side and rear of the existing building, including excavation to the rear. This would form two one bedroom basement flats, two ground floor one bedroom flats, one ground floor three bedroom flat and two first floor two bedroom flats. The rear garden would be subdivided to form garden areas serving the flats and provide four car parking spaces, accessed from Broom Hill Road. An additional parking space would be provided to the front of the building.
8. The proposal would involve the creation of a total of seven units and an increase of three from the 2019 approval. This represents a substantial increase and an almost doubling of the number of units. The intensification of such a use on this scale, would likely to result in a significant increase in the number of comings and goings arising from this site compared to both the extant approval and the existing situation. This would be experienced both to the front and rear of the building, as all flats would have access from both Broom Hill Road and Pepys Way.
9. Future residents returning home in cars, visitors or delivery drivers would be unable to determine whether the parking area was full before entering the access lane. Given the number of units proposed, this would mean that the sound from manoeuvring vehicles as vehicles turned around or parked would become significantly more frequent than occurs at present or than would be generated by the extant approval. This intensification in use of the access lane would cause a level of disturbance concentrated within this area that would be significantly above what would be expected within this reasonably quiet residential area. This would adversely affect living conditions, particularly those of the occupiers of 68 and 70 Broomhill Road, the rear gardens of which lie on the opposite side of the lane to the proposed parking area. The living conditions of the occupiers of the adjoining property 3 Pepys Way would be similarly affected.
10. The appellant has directed me to the provisions of The Framework with regard to effective and efficient use of land. However, for the reasons set out above I have found that the proposal would not represent an efficient or effective use of the land due to the harm arising to living conditions.

11. For the above reasons, I conclude that the proposed development would be harmful to the living conditions of the occupiers of neighbouring properties. The proposal would conflict with Policy BNE2 of the Medway Local Plan (2003) (the Local Plan) which seeks to preserve living conditions. Conflict would also occur with paragraph 130 of the National Planning Policy Framework (the Framework)

Highway Safety

12. The existing access lane that would provide access to the proposed rear parking area and pedestrian access to the building is narrow and little more than a single vehicle width. Vehicles meeting along the access road would likely need to reverse back onto Broom Hill Road, endangering highway and pedestrian safety. Given the likely vehicle movements generated by seven additional units of accommodation and resulting intensification of the access, such occurrences would increase, to the detriment of the safety of road users. This situation would be further worsened by vehicles parking on the road adjacent to the access which would be likely to further reduce visibility from reversing vehicles.
13. On the site visit I saw that streets around the appeal site and Broom Hill Road in particular have reasonably high levels of on street parking, despite the presence of driveways referred to above. On my site visit I saw a near unbroken row of parked cars extending from a point close to the junction with Pepys Way to 64 Broom Hill Road which lies just to the south of the back lane access between 66 and 68 Broom Hill Road. Whilst the town centre is perhaps accessible via longer walking distances, car ownership within this residential area is clearly high, suggesting that residents are more likely to use their cars to access services.
14. It is proposed to provide five parking spaces to serve the seven units proposed. This would be well below the Council's adopted parking standards which require at least ten spaces for a development of this size.
15. The appellant states that not all the seven units will have a car, however I am not directed to any evidence to support this claim, nor would there be any mechanism to prevent future occupants from owning a car. This is a suburban location and the longer walking distances to services is likely to discourage future occupants from walking. Furthermore, the relatively steep incline of both roads, is likely to further inhibit future occupants of the proposed units from accessing services on foot.
16. The appellant has referred to the PTAL system, however I have not been provided with the methodology that led to the site receiving a '2' rating. Nevertheless, I accept that there is a bus stop within walking distance, albeit still involving the steep incline, for the reasons outlined above, it is more likely that future residents would seek to use a private car to access services.
17. The parking survey submitted by the appellant indicates that there would be some capacity for off-street car parking in surrounding streets. However, the red line on the plan of the surveyed area indicates that the survey extended a considerable distance along Broom Hill Road and significantly further than the 200 metres stated. This has not been disputed by the appellant. In my experience it is an unrealistic expectation that residents would park their cars in excess of 200 metres away from their home. Given that the majority of the spaces identified on the survey appear to be located along Broom Hill Road,

and taking into account my own findings on site here, I am not convinced by this evidence and therefore I can only attribute it limited weight.

18. Setting aside visitor parking or instances of multiple vehicles per household, the parking provision proposed would not even amount to a single space per unit. Having regard to the above, the proposed parking would be inadequate and as such would lead to a number of additional vehicles parked along the highway, in an area where there are already reasonably high levels of on street parking. This would inconvenience local residents and cause additional obstruction to vehicles using these roads, which could impede the free flow of traffic and have implications for highway safety. Furthermore, vehicles associated with the proposed flats are likely to park their vehicles as close as possible to the access along Broom Hill Road for convenience, reducing visibility here and adversely affecting highway safety.
19. Having regard to the above, I am not satisfied that taking a more flexible approach to the Council's parking standards would be appropriate. As such there is no convincing reason why the appeal site should not provide the required ten spaces.
20. For the above reasons I conclude that the proposal would adversely affect highway safety. The proposal would therefore conflict with Policy T13 of the Local Plan which seeks to ensure that developments make appropriate vehicle parking provision. It would also conflict with the provisions of Framework paragraphs 110 and 112 which seek to ensure developments achieve safe and suitable access to the site for all users and create places that are safe, secure and attractive which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Biodiversity

21. The appeal site lies within the Zone of Influence of the Thames Estuary and Marshes and the Medway Estuary Marshes Special Protection Areas (SPAs). These are European designated sites. The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) requires that permission may only be granted after having ascertained that it will not affect the integrity of European sites.
22. Due to the appeal site's proximity to the SPAs there is a reasonable likelihood that they would be accessed for recreational purposes by future occupants of the development. Although this may be minimal by itself, when considered in combination with other existing residential development in the surrounding area, a significant effect on the integrity of the SPA would occur.
23. The Council has indicated that there is an agreed strategic solution developed with Natural England to mitigate this effect. The North Kent Strategic Access Management and Monitoring Strategy (SAMMS) sets out a strategy to resolve disturbance issues to wintering birds on the North Kent Marshes, focusing on the European Protected Sites and Ramsar Sites. This requires financial contributions from developers in order to mitigate the effects of increased recreation pressure from the approved development. A per-dwelling tariff has been calculated from the total cost of delivering the mitigation measures in-perpetuity and the planned number of additional dwellings expected to be built across North Kent.

24. It is understood that the appellant has previously paid a tariff for four units as part of MC/19/0575. Consequently, the Council has advised that an additional tariff to account for the additional three units is required. I see no reason to take an opposing view.
25. The appellant has not provided the additional contribution, nor has any other mitigation been proposed. The evidence before me indicates that there is potential for recreational disturbance to the SPAs through additional activity associated with the development, which has the potential to affect the integrity of the SPAs. The Habitats Regulations require me to consider whether there are any alternative solutions. However, no such solutions have been put to me. I must also assess whether there are any imperative reasons of overriding public interest. The provision of seven flats, taking into account the merits of the case, is not sufficient to amount to such overriding public interest. Consequently, having regard to the Habitat Regulations, permission must not be granted.
26. I therefore find that the proposed development would result in significant harm to the integrity of the SPA. For these reasons the proposal would conflict with Policy BNE35 of the Local Plan and paragraphs 180 and 181 of the Framework insofar as they seek to secure the long term protection of Special Protection Areas and mitigate any adverse effects on their integrity.

Other Matters

27. I have been directed to a number of other planning approvals for the construction of large two storey extensions incorporating separate living accommodation. However, from what is before me, none of these relate to multiple flats, therefore I am satisfied none of these represent a parallel with the appeal proposal.

Conclusion

28. For the reasons given above, having considered the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

Paul Martinson

INSPECTOR