



Appeal Decision

Site visit made on 25 May 2022

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Appeal Ref: APP/H2265/W/21/3281136

141 Bow Road, Watringbury, Maidstone, Kent ME18 5EA

- 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 David Prescott against the decision of Tonbridge and Malling Borough Council.
 - The application Ref TM/20/02014/FL, dated 11 September 2020, was refused by notice dated 23 June 2021.
 - The development proposed is to form 2 new houses to the side of an existing terrace.
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Decision

1. The appeal is allowed and planning permission is granted to form 2 new houses to the side of an existing terrace at 141 Bow Road, Watringbury, Maidstone, Kent ME18 5EA in accordance with the terms of application, TM/20/02014/FL, dated 11 September 2020, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the layout of the development on the character, appearance and functioning of the site and surrounding area.

Reasons

3. The appeal relates to an end of terrace house centrally located within an irregularly shaped curtilage. The house is set some 2m above road level with a detached garage set back a little from the site frontage. There is a substantial hedge along the common boundary with 139 Bow Road within the front garden terminating with a tree close to the frontage.
4. The surrounding area is mixed in character comprising several different types of dwellings, a school to the rear with its access close to the site's southern boundary, a station to the south of this and some commercial premises nearby. There is a pump house with a small curtilage next to the site access and a bus stop in front of the site. The appeal site and surrounding area are within the Watringbury Conservation Area (WCA).
5. The proposal requires demolition of a side conservatory for construction of the two houses, retention of regular front and rear gardens for no 141 and sub-division of the remaining curtilage between the proposed houses. The existing garage would be retained by no.141 with a drive formed alongside leading to 2 parking spaces for both of the new houses. The parking spaces would be within the curtilages for each house but there would be a shared turning area in front of house B leading to the shared drive.

6. Whilst these parking arrangements would be unusual in the context of the terrace and surrounding area, they would nonetheless function satisfactorily. The parking spaces would be of sufficient size as would the turning area between them. There would be adequate separation between the spaces and the 2 houses. It is not unusual for dwellings to have a shared drive when there are constraints to the access to the public highway. The existing access is close to the bus stop and access points to the pump house and school, but its increased use should not adversely affect the functioning of adjacent land. I note that the Highway Authority has not objected to the access arrangements subject to a planning condition relating to the construction phase.
7. The adjacent mid-terrace houses have front garden parking set in front of raised lawns and gardens. The parking spaces are open to view in the street scene. At the other end of the terrace, the house at 135 Bow Road has a long drive leading to parking at the side of the house; there are extensive hard surfaced areas which are visible in the street scene. By contrast, the parking spaces proposed at the appeal site would be relatively inconspicuous, screened by existing frontage vegetation which would also partly conceal the position of the vehicle access. The proposed parking arrangements would not detract from the character and appearance of the area.
8. The two houses would be of the same width and design as existing houses in the terrace, incorporating matching features such as the front pitched roof gable and porch design. The houses would be set back considerably from the road but would nonetheless be visible in the street scene being on higher ground. They would constitute minor development appropriate to the scale and appearance of Watlington. Due to the tapering shape of the rear part of the site and the presence of the pump house to the front, the gardens would be smaller than for other houses in the terrace, but in my judgement, they would still be of sufficient size for the modest houses proposed and their shapes would still afford a mixture of front facing and rear private amenity space.
9. The parking arrangements and amenity space provision would not result in an unduly cramped form of development. They would not be so out of keeping with the prevailing character of the area to cause material harm to the visual amenities of the locality. The parking and amenity space layouts would be of satisfactory size and would function adequately.
10. Therefore, there would not be conflict with Policies CP13 and CP24 of the Tonbridge and Malling Core Strategy (2007) requiring new development in rural settlements such as Watlington to be minor in scale, appropriate to the character of the settlement and with a high quality design in terms of detailing, appropriate materials, scale and layout. The proposal would be compatible with Policy SQ1 of the Managing Development and the Environment DPD (2008) which requires development to reflect the local distinctiveness, and sensitivity to change of local character areas. There would not be conflict with Paragraphs 130 and 134 of the National Planning Policy Framework requiring proposals to function well, be visually attractive and sympathetic to local character.
11. The Council cannot presently demonstrate a five year supply of housing when measured against its objectively assessed need. The Housing Delivery Test (HDT) result for 2020 of homes delivered against homes required by Government targets was 91% for 2020 and 63% for 2021. The HDT results confirm an ongoing poor position on the Council's supply of housing.

12. In these circumstances, it is necessary to apply the presumption in favour of sustainable development as set out at Paragraph 11(d) of the Framework. As such, permission should be granted unless, any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Footnote 7 lists circumstances in which the presumption may not apply. These include locations within a conservation area and an area liable to flooding, both applicable to the appeal site.
13. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. The significance of the WCA lies in the quality of the design of the buildings and spaces between them. The size, design and materials proposed for the new houses would reflect that of other houses in the terrace. The proposal would not detract from the significance of the WCA and would thereby satisfy the duty to preserve the character or appearance of the conservation area.
14. The proposal is accompanied by a Flood Risk Assessment as the site lies within Flood Zones 2 and 3. The Council considers that the proposal satisfies the tests for dwellings in a flood zone and the Environment Agency has raised no objection subject to inclusion of an appropriate planning condition. The location of the site within a flood zone therefore does not provide a reason to exempt application of the presumption in favour of sustainable development set out at Paragraph 11(d) of the Framework.
15. The proposal would have the benefit of providing two additional homes in a sustainable location close to the centre of this small settlement and to the services it provides. In view of the Council's poor recent record on housing supply this is a benefit that attracts significant weight. None of the policy considerations listed in footnote 7 provide a clear reason for refusing the development proposed. The only harm identified relates to slightly smaller garden sizes and unusual parking arrangements compared with other houses in the terrace. But these matters do not result in an unduly cramped layout and do not significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.

Other matters

16. I have noted representations made against the proposal. The development should not interfere with a right of way across the site to adjacent houses. Water pressure and sewerage are matters for statutory providers. Other matters raised have been addressed above.

Conditions

17. In addition to the statutory condition to limit the lifespan of the permission, a condition is needed to list the approved drawings in the interests of certainty. A condition requiring approval of a construction method statement prior to works commencing is needed in the interest of highway safety and amenity. Conditions are necessary to require adherence to indicated materials and to approve finished ground levels and landscape arrangements to ensure a satisfactory appearance to the development. Conditions are also necessary to require provision of parking spaces and the shared drive and to approve the location of refuse storage to ensure that the site functions satisfactorily.

18. A condition is required to ensure provision of satisfactory internal noise levels to satisfy concerns raised in the Able Acoustics Assessment (October 2020). Finally, to satisfy the concerns raised by the Environment Agency, a condition is required to require adherence to recommendations arising from the Ambiantal Flood Risk Assessment.

Conclusion

19. The layout of the development would not have a detrimental effect on the character, appearance and functioning of the site and surrounding area. For the reasons given above I conclude that the appeal should be allowed subject to appropriate planning conditions.

Rory MacLeod

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 100, 101, 101A, 102, 103, 104, 105, 106 and 107.
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking and turning of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - 3m clearance of and protection for a foul rising main on the site;
 - provision of wheel washing facilities;
 - measures to control the emission of dust and dirt during construction; and
 - delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No development shall commence above ground level until a plan showing the proposed finished floor levels, eaves and ridge levels of the dwellings and finished ground levels in relation to the existing ground levels of the site and adjoining land has been submitted to and approved by the local planning authority.

- 5) No development shall commence above ground level until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any boundary fences or walls or similar structures as may be approved shall be erected before first occupation of the building to which they relate. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The external surfaces of the development hereby permitted shall be constructed in the materials shown on plan no. 106
- 7) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 101A for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear. The parking spaces shall thereafter be kept available at all times for the parking of resident's vehicles.
- 8) No development shall commence above ground level until full details of a scheme for the storage and screening of refuse and cycles has been submitted to and approved by the local planning authority. The approved scheme shall be implemented before first occupation of the dwellings and shall be retained thereafter.
- 9) Prior to commencement of building operations above ground level, details of internal noise mitigation and ventilation of the buildings shall be submitted to and approved by the local planning authority. The approved measures shall be provided in full prior to first occupation of the houses.
- 10) The development shall be carried out in accordance with the submitted flood risk assessment (ref 5613, v1.0, Ambiental Environmental, Date: 10/09/2020) and the following mitigation measures it details:
 - Finished floor levels shall be set no lower than 13.48 metres Above Ordnance Datum (AOD) (See section 7.9 of the FRA).
 - Sleeping accommodation shall be at first floor level only (see section 1.9 of the FRA), as shown in drawing ref: B570, no.103, Date July 2020.
 - The two dwellings shall be positioned on site as shown in drawing ref: B570, no.101, Date: June 2020 & ref: B570, no.106, Date: June 2020.
 - Flood resistant and resilience measures such as airbrick covers and non-return valves shall be installed, as detailed on section 7.9 of the FRA.
 - The applicant shall sign up to the Flood warning Service and have an evacuation plan in place prior to first occupation of the dwellings (See section 7.1-7.3 of the FRA).