



Appeal Decision

Site visit made on 4 October 2022

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 November 2022

Appeal Ref: APP/A2280/W/20/3251866

Land to the rear of 52, Dagmar Road, Luton, Chatham, ME4 5HB

- 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 S4LP LLC Limited against the decision of Medway Council.
 - The application Ref MC/19/2408, dated 11 September 2019, was refused by notice dated 28 November 2019.
 - The development proposed is construction of a terrace of four 3-bedroom houses with associated landscaping and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the Council's decision notice as no description was provided on the submitted application form.

Main Issues

3. The main issues in this appeal are:
 - whether the proposed development would provide acceptable living conditions for future occupiers in respect of outside amenity space; and
 - the effect of the development on the safety and convenience of highway users.

Reasons

Living Conditions

4. Policy BNE2 of the Medway Local Plan 2003 (LP) requires all development to secure the amenities of its future occupants. The Medway Housing Design Standards 2011 set out that houses should be provided with a private garden for play and recreation and that in most cases it should be sufficient to provide a sitting out area, small shed, clothes drying area, area of play and space for planting. It notes that where space is constrained a reduced standard of 7 metres will be acceptable
5. Having regard to the size of the amenity area proposed, which is heavily constrained due to the sloping nature of the site, it would have limited practical use for sitting out, or drying washing and would provide inadequate opportunity for play.

6. The proposed dwellings would have three bedrooms which makes them more likely to be occupied by families. But even for childless or older couples, who may not wish to have a large garden, the proposal is still required to provide a good standard of accommodation for all potential future occupiers.
7. I have taken into account that the site is within close proximity to the nearby public open space of the Albany Road Park. Whilst this is relatively close to the site, using this would be significantly less convenient than using an appropriate amenity space at the appeal site. Therefore, the lack of easily accessible amenity space for the occupiers of the proposed dwellings is not, in this instance, adequately mitigated by the proximity to public open space.
8. I have also taken into account the proposed balcony on the second floor, however this is of limited size and is not directly accessed from a habitable room. I have also had regard to the inclusion of a Juliet balcony from bedroom 3. However, even taken together, these would not adequately mitigate the lack of usable amenity space for future occupiers.
9. It has been put to me that the amenity space provision would be the same as the previously consented scheme, approved in 2005 and subsequently renewed in 2015. However, this was for two-bedroom houses and therefore would be less likely to be occupied by families. Furthermore, I have nothing before me to indicate that this consent is extant and capable of implementation.
10. In conclusion, the development fails to provide acceptable living conditions for future occupiers of the proposed dwellings, with particular reference to amenity space. It would therefore be contrary, in this regard, to Policy BNE2 of the LP which looks to secure the amenities of its future occupants.

Highway Safety

11. The proposed dwellings would be accessed off Shipwrights Avenue, which currently provides rear access and parking for dwellings fronting Castle Road and rows of garages.
12. Policy T13 of the LP sets out that development proposals will be expected to make vehicle parking provision in accordance with adopted standards provided in appendix 6 of the LP. The Medway Council Interim Residential Parking Standards (RPS) sets out that for developments of 3 bedrooms or more a minimum of 2 parking spaces per dwelling will be required and that this excludes garages of less than 7 metres by 3 metres internal dimension.
13. The evidence before me indicates that the proposed garage would fail to meet the standard set out within the RPS to be counted as a parking space. As such the proposal fails to provide the 2 parking spaces required per dwelling.
14. The appellant has submitted a revised plan indicating how the site could accommodate a tandem garage, albeit the width of this remains below the requirements of the RPS. I have not considered this as part of this appeal as I consider that this change would materially alter the nature of the application and would prejudice the interests of interested parties.¹

¹ Annex M of the Procedural Guide Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

15. The proposal would result in additional dwellings with access from Shipwrights Avenue and therefore increase demand for parking on the street. Due to the proximity to the existing garages and rear accesses the opportunities for off-street parking are limited. Increased parking demand in instances of limited supply may lead to additional congestion as drivers seek parking spaces, or park illegally, which would be detrimental to highway safety. There is no evidence to suggest that such circumstances could be avoided by the appeal proposal.
16. I accept that the site is well located in relation to nearby services and facilities and therefore a reduction in the parking standards as set out within the Policy could be considered. However, I have not been provided with any details of local bus services which would be available to occupiers of the proposed development. The plans indicate cycle storage would be located within the dwelling; however, it is unlikely to be of sufficient size for all occupiers of the dwelling and may also be required for refuse storage. This leads to uncertainty that cycling or public transport would offer an alternative form of transport to occupiers of the dwellings.
17. Therefore, the site's location does not overcome my concerns that the shortfall proposed in this instance would lead to a lack of appropriate parking which would be detrimental to highway safety.
18. The appellant has suggested that parking restrictions could be implemented along Shipwrights Avenue. They have also indicated that they are willing to provide a financial contribution to secure such restrictions, including the provision of established parking bays. However, the introduction of parking restrictions would not overcome my concerns regarding the lack of on-site parking provision as any improvements would be for the benefit of existing residents who park within the vicinity of the site and would not alleviate parking pressures arising from the appeal site. In any event, I have nothing before me to secure any scheme for parking improvements along Shipwrights Avenue.
19. In conclusion, the proposed development would have a harmful impact on highway safety and would conflict with policy T13 of the LP which seeks to ensure adequate standards of parking provision. Therefore, I consider that the development would also be contrary to paragraph 111 of the National Planning Policy Framework which advises that development should be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety.

Other Matters

20. It would appear that the appeal site falls within a 'Zone of influence' for a designated site and the appellant has submitted an agreement under the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy to secure ecological mitigation. As the competent decision making authority, if I had been minded to allow the appeal it would have been necessary for me to complete an Appropriate Assessment for this scheme. However, as I am dismissing the appeal for other reasons, I have not taken the matter further.

21. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework highlights the contribution small and medium sized sites can make to meeting the housing requirement in the area. The development would also give rise to some economic benefits during the construction phase and provide limited support to local services.
22. Nevertheless, the identified adverse impacts of the development, as set out above, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

Conclusion

23. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict. For the reasons outlined above, I conclude that the appeal should be dismissed.

G Pannell

INSPECTOR