
Appeal Decision

Site visit made on 22 March 2023

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th April 2023

Appeal Ref: APP/A2280/W/22/3305325

Land opposite 20-30 Weybridge Close, Lordswood, Chatham ME5 8RW

- 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 C Neate against the decision of Medway Council.
 - The application ref. MC/22/0606, dated 4 March 2022, was refused by notice dated 6 May 2022.
 - The proposed development is for the erection of 4 two-bedroom flats with associated parking.
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Decision

1. The appeal is allowed for the erection of 4 two-bedroom flats with associated parking on land opposite 20-30 Weybridge Close, Lordswood, Chatham ME5 8RW in accordance with the terms of the application ref. MC/22/0606, dated 4 March 2022, subject to the conditions in the attached schedule.

Main Issue

2. The main issue is the effect of the development on the provision of open space, having regard to trees and the character and appearance of the area.

Reasons

3. The appeal site comprises an area of grass and trees in a residential estate. It is bordered by stretches of public road and footpaths, a car park for use by local residents and the rear gardens of properties on Kingston Crescent. Nearby dwellings are generally semi-detached or terraced in nature over two storeys.
4. At my site visit I walked through the neighbourhood, noting in particular the entrance to the woodland on the north side of Lords Wood Lane (opposite the junction with Kingston Crescent), and the public footpath crossing North Dane Way in the direction of Capstone Country Park. The estate has been well-planned, with good inter-connectivity between the residential roads and surrounding woodland and countryside for pedestrians via a network of footpaths that permeate the area.
5. I fully appreciate that the scheme before me would result in the loss of part of the amenity area adjacent to Weybridge Close. I note representations concerning the need for an area for local children to play, the removal of trees, the impacts on ecology, biodiversity and wildlife, and that the green is well-kept and overall makes a positive contribution to the character of the street scene.

6. These issues notwithstanding, the Council has indicated that the appeal site is not protected or formal open space under the Local Plan. I am also cognisant that a greater proportion of the land would remain for the use of local residents, and the location of the new building would not impede pedestrian accessibility through the immediate locale. The appellant has pointed out that the land is privately owned; public access to the open space that currently exists is at the discretion of the land owner and it could be enclosed to prevent future use. Consequently, any existing value from such access would only carry limited weight because it may not endure.
7. The aforementioned area of woodland on the north side of Lords Wood Lane, which the Council has indicated is designated open space, is in close proximity to the site with accessibility via well-lit, level footpaths. Similarly, the public footpath in the direction of Capstone Country Park, which leads across attractive open countryside, is an easy walk via Kingston Crescent and North Dane Way. Although the latter road is busier with fast-moving traffic, I observed that pedestrian visibility is good in both directions and there is a central island for refuge.
8. Policy BNE43 of the Medway Local Plan 2003 (LP) states that, amongst other things, development should seek to retain trees that provide a valuable contribution to local character. The submitted tree survey indicates that the specimens to be removed are of low value, and I have no robust evidence to the contrary. As such, I am drawn to conclude that the trees to be felled do not provide a valuable contribution to local character.
9. The preamble to Policy BNE43 notes that the Council will require any tree loss to be compensated by, for example, the planting of additional trees of appropriate species and of semi-mature size. The submitted landscaping plan demonstrates that replacement trees could be planted elsewhere on the site to counterbalance those to be removed. I am therefore satisfied that the policy requirements would be met and that this matter can be addressed through the imposition of a condition, which would allow the Council control over the number of replacement trees should a net gain be deemed appropriate.
10. With regard to biodiversity matters I have no robust evidence, for example from a qualified ecologist, that the loss of existing vegetation on the site would be harmful to wildlife. As well as the new trees, planting of indigenous hedgerows around the proposed flats would provide habitats for birds and insects, thereby increasing ecological potential.
11. The amenity area itself is attractive and well-maintained. Nonetheless, the overall character of the area is one of a relatively high-density, urban residential setting. Subject to appropriate landscaping I am satisfied that the development would integrate with this environment, reflecting the general size, scale and design of other buildings in the neighbourhood.
12. Drawing the strings together; the appeal site is not protected or formal open space under the Local Plan; a greater proportion of the land would remain for the use of local residents; the land is privately owned and public access could be prevented in future; the proximity of open space locally; the planting of replacement trees and new hedgerows; and the assimilation of the built form within the context of the area lead me to conclude that objections to the scheme are unfounded. I sympathise with the strength of local feeling on the issue, however there are no sound planning reasons for the appeal to be dismissed based on the policy provisions before me.

13. I conclude that the proposal would not result in harm to the provision of open space, having regard to trees and the character and appearance of the surrounding area. It would be in accordance with Policies BNE1 and BNE43 of the LP, which seek to secure new development of acceptable scale and appearance and to compensate for any tree loss with replacement planting. It would also be consistent with the advice in the National Planning Policy Framework, which states that good design is a key aspect of sustainable development.

Other Matters

14. Local residents have expressed a range of other concerns over the impact of the proposal, including loss of privacy and light, overbearing effects, parking and access arrangements, the construction process, pollution, noise and disturbance, the rejection of the site for housing in the Council's 2010 Strategic Land Availability Assessment, ongoing maintenance, the introduction of balconies, and cycle and refuse storage.
15. However, these issues would either be dealt with through the imposition of conditions, or have been previously addressed in the planning officer's Committee report or the appellant's submissions. The effect of the development on local house prices is not a matter that can be addressed by the planning system. Finally, I have no compelling material before me to suggest that the proposal would place undue strain upon local infrastructure, or that the development would result in an increase in anti-social behaviour.
16. Therefore, whilst I can understand the apprehension of local residents, their concerns are not supported by any substantive evidence that would justify the dismissal of the appeal on these grounds.

Conditions

17. I have considered the imposition of conditions in light of advice in Planning Policy Guidance and the Framework. I have altered the wording of some of the conditions suggested by the Council in the interests of clarity and necessity. In addition to the standard implementation condition, a condition requiring the development to be carried out in accordance with the submitted drawings is reasonable and necessary for the avoidance of doubt and in the interests of proper planning.
18. The submission of materials, boundary treatments and hard and soft landscaping plans would ensure that the external appearance of the proposal is satisfactory to integrate with the area. Construction and Landscape Management Plans would address matters relating to hours of construction, control of noise and pollution, and the management and maintenance of landscaping in the interests of the amenities of local residents and the ongoing visual appearance of the development.
19. Vehicle and cycle parking, refuse storage, energy efficiencies and electric vehicle charging points should be incorporated to secure provision of parking spaces and other facilities and measures on site. A condition requiring the protection of the retained trees as shown on the submitted Tree Protection Plan would prevent irreversible harm to specimens on the site.

Conclusion

20. Having regard to the above and all other matters raised, I conclude that the appeal should be allowed.

C Hall

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: Site plan, 01422 PL01
- 3) Except for demolition, no development shall take place above slab level until details of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the Local Planning Authority (LPA). Development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the development herein approved a plan indicating the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the LPA. The boundary treatment shall be completed in accordance with the approved details before any dwelling and/or building is occupied and shall thereafter be retained.
- 5) No development above slab level shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping.

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 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) No development shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include amongst other matters details of: hours of construction working; measures to control noise affecting nearby residents; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall thereafter be carried out in accordance with the approved CEMP.

- 7) Prior to the first occupation of the development herein approved, a Landscape Management Plan (LMP) shall be submitted to and approved in writing by the Local Planning Authority. The LMP shall include long-term design objectives, management responsibilities and maintenance schedules for all hard and soft landscape areas (except for small, privately owned, domestic gardens) for a minimum period of five years and arrangements for implementation. The development shall thereafter be managed in accordance with the approved details.
- 8) No dwelling shall be occupied until the vehicle parking spaces have been laid out within the site in accordance with drawing no. 01422 PL01. Thereafter it shall be kept available for such use and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order) shall be carried out on the land so shown or in such a position as to preclude vehicular access to this reserved parking space and garaging.
- 9) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 01422 PL01 for bicycles to be stored and that space shall thereafter be kept available for the parking of bicycles.
- 10) Prior to the first occupation of any dwelling hereby approved details of the refuse storage arrangements for the dwellings, including provision for the storage of recyclable materials, shall be submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the approved refuse storage arrangements for that dwelling is in place and all approved storage arrangements shall thereafter be retained.
- 11) The development herein approved shall incorporate the measures to address energy efficiency and climate change as set out within the Climate Change and Energy Efficiency Statement received 7 March 2022. The development shall not be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the Local Planning Authority confirming that all the approved measures have been implemented.
- 12) Prior to the first occupation of the development herein approved details of the provision of 6 electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. Details shall include the location, charging type (power output and charging speed), associated infrastructure and timetable for installation. The development shall be implemented in accordance with the approved details and shall thereafter be maintained in working order.
- 13) No development shall take place until the scheme for the protection of the retained trees within the Tree Protection Plan (dated 23 February 2022) has been implemented. The tree protection measures shall be retained throughout the construction phase of the development.