



Appeal Decision

Site visit made on 1 February 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 May 2023

Appeal Ref: APP/U2235/W/22/3298952

Land Adjacent to Royal Engineers Road, Maidstone, Kent, ME14 1AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Jarrod Spencer of Weston Homes PLC against the decision of Maidstone Borough Council.
 - The application Ref 21/502827/SUB, dated 20 May 2021, sought approval of details pursuant to condition No 6 of planning permission Ref 18/502791/FULL granted on 15 April 2021.
 - The application was refused by notice dated 24 March 2022.
 - The development proposed was a Section 73 Application for Minor Material Amendment to Condition 11 of planning permission 16/507471/FULL (as amended by 17/505581/NMAMD) (310 residential units, in two buildings ranging between 8 and 18 storeys, including 177sqm of A1/D1/D2 floorspace, associated car parking, public realm and landscaping works). Amendment to proposed tenure of units in Block B (Revised to private tenure from Build to Rent). Amendments to Block B: proposed unit mix for, building footprint, layout of the basement floor to increase parking provision to enable allocated parking. Amendment to location of Block A. Amendment to road position North of Block A, Amendments to both Blocks A and B to landscape design proposals, elevational treatment and proposed external facing material palette.
 - The details for which approval is sought are: "Prior to the first installation of any balconies or balustrade on Block B, large scale detailed drawings including sections shall be submitted to and approved by the Local Planning Authority. The details shall include any privacy screens and be installed as approved."
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Decision

1. The appeal is allowed, and the balcony details submitted pursuant to condition No 6 attached to planning permission Ref 18/502791/FULL are approved.

Applications for costs

2. An application for costs was made by Weston Homes PLC against Maidstone Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. The appellant's evidence indicates that condition No 6 is not necessary or precise and thus fails the tests outlined within the National Planning Policy Framework. However, the appeal before me is not one against the condition itself. As such, in determining the appeal, the tests of necessity and precision do not form part of my considerations.

Main Issue

4. The main issue is whether the details submitted are acceptable and sufficient to approve the details submitted pursuant to condition No 6 (the condition) attached to planning permission 18/502791/FULL.

Reasons

5. Planning permission was granted for the development of 310 residential units, in two buildings ranging between 8 and 18 storeys, including 177 m² of A1/D1/D2 floorspace, associated car parking, public realm and landscaping works in 2017 (16/507471/FULL). The evidence before me indicates that this planning permission was subsequently amended through a series of applications, including reference 18/502791/FULL to which condition No 6 relates. Amongst other aspects, this application sought to amend the elevational treatment and the external facing material palette of block A (adjacent building) and block B (appeal building). Despite protracted negotiations, I understand that the main parties failed to reach a conclusion on the design of the proposed balconies. Therefore, in the interests of expediency and to ensure that the design quality of the scheme was not gradually diminished, condition No 6 was imposed as a mechanism to facilitate further design discussions following the grant of permission.
6. I recognise that the appeal building by virtue of its scale and location is highly prominent within the context of its surroundings. However, the overall design and finish of the balconies would be in keeping with the adjacent tower development and thus would ensure a consistent and cohesive design approach. While the original design concept for coloured glass balconies would be lost, and metal railings are somewhat commonplace on flatted development, it is not clear that any tangible harm would result to the character and appearance of the area through the use of metal railings. Moreover, it is noted that the details submitted pursuant to condition No 6 are consistent with the external materials specification included within Appendix 3 of the modified Section 106 agreement. Consequently, whilst I fully appreciate the Council's desire to maintain the original architectural concept, it appears to me that there is already agreement regarding the installation of metal balconies. Based on this agreement together with my findings in respect of character and appearance, I find that the balcony details submitted are acceptable.
7. For these reasons, I find that the proposal accords with Policy DM1 of the Maidstone Borough Local Plan 2017, which amongst other factors, seeks to ensure that proposals respond positively to, and where possible enhance the local character of the area. I also find the proposal to be consistent with the design objectives of the National Planning Policy Framework, which amongst other aspects seek to secure the creation of high-quality buildings and places.

Other Matters

8. In determining the appeal, I have had regard to the other matters raised by the Council including planning enforcement issues and potential flaws in the technical detail. Nevertheless, these factors do not lead me to a different conclusion.

Conclusion

9. For the reasons given above, and taking account of all other considerations, I conclude that the appeal should be allowed.

H Wilkinson

INSPECTOR