



Appeal Decision

Site visit made on 1 June 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2023

Appeal Ref: APP/A2280/W/21/3286309

16 Hollywood Lane, Wainscott, Rochester ME3 8AH

- 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 Satwinder Lidhran against the decision of Medway Council.
- The application Ref MC/21/1348, dated 10 May 2021, was refused by notice dated 24 August 2021.
- The development proposed is 2No x 2 bedroom bungalows with access & parking.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issues

3. The main issues are the effect of the proposed development on:
 - highway safety;
 - the character and appearance of the area; and
 - the living conditions of neighbouring occupiers at 18 Hollywood Lane with particular regard to noise and disturbance.

Reasons

Highway Safety

4. Access to the proposed dwellings would be provided via a shared driveway taken from the existing driveway of No 16 Hollywood Lane. As identified on the accompanying plan¹, the proposal would see three parking spaces provided for No 16 to the front of the appeal site and spaces located to the rear serving the new dwellings. Despite a narrowing in the proposed driveway along the side and rear to No 16, there would be short sections on either side that would allow vehicles to pass each other.

¹ Ref: PL-01 Rev P7

5. This side of Hollywood Lane, closest to the appeal site, is served by a narrow section of pavement/footway likely to cause difficulty for prams or those with limited mobility. In contrast, the opposite side is set back from the road by a grass verge and includes a wide footway and cycle path. There are also road markings which are used to separate traffic lanes or to protect traffic turning right.
6. At my site visit, which I appreciate is only a snapshot in time, I observed a steady number of motor vehicles, including cars and vans, passing the site from both directions along Hollywood Lane.
7. The driveway currently serves one property, and the proposed development would triple the number of dwellings it serves with the capacity for parking of seven motor vehicles.
8. The location of the three spaces close to the driveway entrance off Hollywood Lane would increase the opportunity for conflict between users/vehicles on the driveway close to the entrance as there may be times when different occupiers are entering or exiting the driveway. This would in turn likely lead to vehicles waiting in the highway or reversing onto the highway. This would not only be from vehicles of the occupiers of the new dwellings but also larger vehicles such as delivery vehicles and emergency service vehicles. These waiting and reversing vehicles would cause an obstruction, restricting the movement of vehicles within the site and on Hollywood Lane and therefore causing a conflict between vehicles which would be harmful to highway safety. This would also result in a severe impact on the free flow of traffic as I observed a steady flow of traffic using the road.
9. I note the applicant's comments in relation to the Council's committee report and the minutes of the Council's committee meeting in regard to the increased risk of accidents. However, this matter is clearly set out in the Council's decision notice with the specific concerns on highway safety set out. There is no substantive evidence before me to conclude that any technical evidence is required to demonstrate such harm. Indeed, I have identified such harm for the reasons set out above. In regard to the policy references, I have not been supplied with copies of Policies T1 or T2.
10. The appellant has drawn my attention to examples of development within rear gardens. Whilst I do not have full details of these schemes, I note that none of the examples given show two additional dwellings with the same parking and driveway layout as the proposed scheme. Furthermore, the example at No 36 (Ref: MC/21/1873) is for a conversion. In this regard, existing developments are materially different to the appeal proposal, and therefore I cannot draw any direct comparison that weighs in favour of the proposal.
11. Accordingly, the proposed development would have an unacceptable harmful effect on highway safety. Therefore, the proposal would fail to comply with Medway Local Plan Policies H9, BNE1 and BNE2, which amongst other things, seek to ensure new development is of an appropriate layout, provides acceptable vehicular access and protects surrounding amenity having regard to activity levels and traffic generation.

Character and appearance

12. The appeal site forms part of the side driveway and rear garden of a two-storey semi-detached property. It is located within a suburban area comprising a variety of single-storey and two-storey dwellings of different designs and sizes. To the front along Hollywood Lane, there is a strong sense of rhythm and uniformity to the street scene as properties are set back from the road by gardens and driveways. In contrast, the rear of the site does not share the same sense of rhythm and uniformity due to orientation of the houses and the position of the nearby infill garden development.
13. With the exception of the driveway, the appeal site is bound by residential curtilages to all sides. Boundaries surrounding the site are predominantly timber fencing with an area of hedging. The substantially enclosed nature of the site means that it does not make a significant contribution to the character and appearance of the streetscene or wider area from public views.
14. There would be views through the gaps between existing properties in the surrounding area and along the shared driveway. However, these would be restricted given the location of the new dwellings in proximity to existing dwellings which would serve to obstruct, at least partially, views of the new dwellings from many points. At this distance, it would be difficult to distinguish the proposed dwellings from those already existing on Greenfields Close and the backland development off Higham Road such that where visible, the dwellings would not be at odds with the prevailing character of the area.
15. The existing driveway is already of some length projecting beyond the rear of Nos 16 and 18. The proposed short increase in length would only be visible from glimpsed views directly across from the site. The use of landscaping and limited views would all help the extended driveway assimilate with its surroundings and therefore avoid it appearing as a contrived feature.
16. The proposal would result in the loss of private garden space at No 16. However, a sufficiently sized garden comparable to other nearby dwellings would remain to ensure the development does not appear cramped or at odds with the character and appearance of dwellings found nearby.
17. In conclusion, the proposed development would not result in a clear improvement in the local environment thereby conflicting with MLP Policy H4. However, the proposed development would not be harmful to the character or appearance of the area. Consequently, it would not further conflict with MLP Policies H9 and BNE1. These policies, amongst other things, seek to ensure the character and amenity of the area as a whole is maintained development is appropriate in relation to character, appearance and function. It would also comply with the Framework, in so far as it seeks new development to be of a high quality.

Living Conditions

18. The position of the vehicular access between and into the rear of 16 and 18 Hollywood Lane would not be typical in design terms of what is evident nearby on this section of the road, with driveways located to the immediate front/side of nearby dwellings. Nevertheless, vehicle movements in close proximity to houses and gardens would not be particularly unusual for a residential area.

19. Indeed, the present layout of the appeal site contains an existing driveway and double garage located beyond the rear of No 18 such that vehicle noise and other disturbances are already experienced.
20. Notwithstanding the severe highway safety conflicts identified above it is unlikely that there would be a significantly large number of vehicular movements associated with the modest two-bedroom dwellings proposed. The noise and disturbance levels, including from vehicle lights, likely to emanate from associated vehicle movements of the proposed dwellings would be commensurate with what one might expect in a residential area.
21. As such, even taking into account the limited increase in vehicle numbers, existing boundary treatments, the orientation of the windows and garden at No 18, I do not consider that there would be any unacceptable effect on the living conditions of the occupiers of this neighbouring property through noise and disturbance.
22. For these reasons, the proposed development would not conflict with Policies BNE2 and H9 of the MLP, which seek in part to secure the amenities of neighbouring residents from unacceptable noise, activity levels and traffic generation. The proposed development would also comply with Paragraph 130 of the Framework, which seeks a high standard of amenity for existing users.

Other Matters

23. The appeal site lies within 6 kilometres of the North Kent Marshes Special Protection Areas/Ramsar sites. However, as the appeal is being dismissed on grounds related to highway safety, an Appropriate Assessment under Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 is not required. A planning obligation was submitted in this regard, but this would have mitigated harm and would not have amounted to a benefit. For these reasons, I have not considered this matter further.
24. I acknowledge that the proposed scheme has been revised following pre-application engagement. However, Council members are not bound to agree with comments provided by officers at the pre-application stage. Furthermore, I have found harm in relation to the appeal proposal before me with regard to highway safety.

Planning Balance

25. It is common ground between the parties that the Council cannot demonstrate a five-year supply of deliverable housing sites. The Council confirm it has only delivered 55% of its target number of dwellings in the preceding 3 years. The appellant states this figure demonstrates the Council can only demonstrate a 3.03-years supply of deliverable housing.
26. Given the extent of the shortfall and the scale of the scheme, the contribution of two additional dwellings attracts moderate weight. There would be environmental benefits as the proposed design and construction methods of the dwellings would minimise energy and water use and where possible be constructed of sustainably sourced materials. The incorporation of electric vehicle charging points and bicycle storage would also help to promote more different modes of travel and better air quality. The proposal would also have

- further environmental benefits through new planting and bat/bird boxes. Given the scale of the development I attach little weight to each of these benefits.
27. There would be economic benefits through the construction and occupation of the dwellings. As construction benefits would be short term, I attach little weight.
 28. The provisions set out in paragraph 11 of the Framework are relevant in this case. I also acknowledge, the MLP is of some age nonetheless, the Framework states existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
 29. MLP Policy H4 requires improvement in the local environment. While not creating an improvement, the proposal would conserve the character and appearance of the area and therefore I attach limited weight to this conflict. The Framework seeks development which is sympathetic to local character.
 30. The proposal would be contrary to Policies H9, BNE1 and BNE2 of the MLP which amongst other things, broadly seek to ensure new development is acceptable with regards to highway safety. This is consistent with the provisions of the Framework, and I attach significant weight to the conflict with these policies.
 31. As a result, there would be a conflict with the development plan when considered as a whole.
 32. There would be a benefit from the delivery of two additional dwellings to the Council's housing stock in an accessible location close to facilities and services. This would accord with the aims of the Framework to significantly boost the supply of housing and that small and medium-scale developments can make an important contribution to meeting the housing requirement and be built out quickly. The economic and environmental benefits from the build and occupation would align with the Framework's aim to support economic growth, enhance biodiversity and promote sustainable methods of transport. Still, even with the context of the level of the shortfall in this instance, these would be limited by the modest scale of the proposal.
 33. The scheme would not improve the local environment but would accord with the Framework with regard to being sympathetic to local character therefore little weight is given to this conflict.
 34. The scheme would be contrary to the Framework where it seeks to avoid conflict on the highway between users, requires safe and suitable access for all users and that development should be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. This harm, and weight attracted by it, would be significant.
 35. A lack of harm from other issues such as living conditions are neutral factors and do not weigh in favour of the scheme.
 36. Having considered the above, the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

37. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the development plan, unless material considerations indicate otherwise.
38. The proposal conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.

Conclusion

39. The proposal would not harm the character and appearance of the area or result in significant harm to the living conditions of neighbouring occupiers. Notwithstanding this and for the above reasons the development would be harmful to highway safety. As a result, the proposal conflicts with the development plan when taken as a whole and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
40. Therefore, I conclude the appeal should be dismissed.

A Hickey

INSPECTOR