



Appeal Decision

Site visit made on 18 December 2023

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/H2265/W/23/3322794

83 High Street, West Malling, Kent ME19 6NA

- 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 Caxton House Investments Ltd against the decision of Tonbridge & Malling Borough Council.
 - The application Ref TM/22/01588/FL, dated 18 July 2022, was refused by notice dated 29 November 2022.
 - The development proposed is the demolition of existing small outbuilding, demolition of brick element of and alterations to existing ragstone wall, demolition of a curved garden wall, and the construction of two houses with associated hard landscaping, boundary wall extension, cycle stores, and fencing.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing small outbuilding, demolition of brick element of and alterations to existing ragstone wall, demolition of a curved garden wall, and the construction of two houses with associated hard landscaping, boundary wall extension, cycle stores, and fencing at 83 High Street, West Malling, Kent ME19 6NA in accordance with the terms of the application, Ref TM/22/01588/FL, dated 18 July 2022, subject to those conditions set out in the attached schedule.

Preliminary Matters

2. Revised versions of the National Planning Policy Framework (the Framework) have been published since the planning application was determined by the Council. I have had regard to the latest version of the Framework in reaching my decision.
3. There have been two previous local planning authority refusal decisions relating to applications for planning permission (Ref: TM/21/02710/FL) and listed building consent (Ref: TM/21/02711/LB) for development of the same description as that set out in the banner heading above. Those decisions were the subject of appeal in which both appeals were allowed (Ref: APP/H2265/W/22/3300796 & APP/H2265/Y/22/3300801). Whilst the Inspector found that the proposal would result in less than substantial harm to the listed buildings and gave this considerable importance and weight, the Inspector concluded that the public benefits of the proposed development, whether taken individually or cumulatively, would outweigh the harms.

Main Issue

4. The main issue in respect of this appeal is the effect of the proposed development on the setting of adjacent heritage assets being those of Listed buildings and the West Malling Conservation Area.

Reasons

5. The Council accepts that the substance of the original scheme and that of the appeal scheme that is before me are similar and, as such, the local planning authority have confirmed that they do not wish to contest this appeal. Furthermore, the Council have commented that this scheme represents an improvement to that of the previous scheme allowed by the Planning Inspector.
6. The Parish Council, Kent County Council's Heritage and the Council's Conservation Officer have raised objections to the proposal primarily in regard of heritage assets. However, given the previous Inspector has found the previous proposals to be acceptable in respect of such matters and that the proposal before me would represents an improvement to that of the previous scheme, I am not led to come to a different view to that of the previous Inspector.
7. For these reasons, I conclude that the proposed development would not harm the setting of adjacent heritage assets being those of Listed buildings and the West Malling Conservation Area. As such, the proposed development would comply with Policy CP24 of the Tonbridge and Malling Core Strategy and Policy SQ1 of the Managing Development and the Environment Development Plan Document. These policies seek, amongst other matters, development to be well designed, respect its surroundings and to protect local distinctiveness.
8. With regard to the Framework, the previous Inspector found that the benefits would outweigh the harms, such that the proposal would accord with the Framework. The recently revised Framework has not changed in respect of these considerations such that might lead me to come to a different view with regard to considerations pertaining to the Framework.

Other Matters

9. A number of neighbouring occupiers have objected to the proposal. The objections include matters relating to living conditions, parking provision, building works disruption and waste disposal, amongst others. The local planning authority considers that it is possible to achieve suitable residential living conditions for the occupiers of the proposed dwelling without adversely affecting the residential living conditions of occupiers of existing dwellings. The site is currently accessed via the car park and no changes are proposed to this arrangement. The intention is to provide a parking space for each dwelling and this would meet the Council's requirements for parking provision. The local planning authority have also found the proposal to be acceptable with regard to highway safety. On the evidence before me I have no substantive reason that would lead me to a different view on these matters.
10. The Council's Environmental Protection Officer has highlighted the proximity of the proposed dwellings to the car park and the potential for associated noise and disturbance. Arrangements for the management of demolition and construction work can be controlled by way of a suitably worded planning condition to minimise any adverse impact on highway safety and nearby

residents living conditions. Similarly, the potential for contamination has been identified however this could also be controlled by way of a suitably worded planning condition.

11. In regard of the previous proposal costs were awarded against the Council. The Council do not consider that it is in the public interest to defend this appeal. Given the Council does not wish to defend this appeal the appellant does not wish to pursue an application for costs.

Conditions

12. The Council have suggested conditions which I note are the same conditions as those imposed by the Inspector when allowing the previous scheme. I have considered the conditions put forward in light of the Planning Practice Guidance. In addition to the standing time limit condition and in the interests of certainty it is appropriate that there is a condition requiring that the development is carried out in accordance with the approved plans.
13. A condition relating to construction management is necessary in the interests of highway safety and the living conditions of nearby residents. A condition securing an archaeological watching brief is necessary to protect the archaeological potential of the site. Conditions requiring details of slab levels, external materials and doors/windows are necessary to protect the character and appearance of the conservation area. A condition requiring parking spaces to be laid out in accordance with the plans is necessary to ensure that proper provision is made for the vehicles of future occupiers. A condition relating to contaminated land is necessary in the interests of managing risks of pollution.

Conclusion

14. For the reasons set out above, and subject to the conditions listed in the attached schedule, this appeal should be allowed.

Nicola Davies

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin no 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: : Existing Site Plan received 08.10.2021 Reference 3025-9001 V01, Proposed Floor Plans received 08.10.2021 Reference 3025-9002 V09, Existing Elevations received 08.10.2021 Reference 3025-9005 V02, Proposed Elevations received 08.10.2021 Reference 3025-9006 V04, Landscape Layout received 08.10.2021 Reference 3025-9007 V01, Location Plan received 08.10.2021 Reference 3025-9000 V00, Archaeological Assessment received 08.10.2021, Design and Access Statement received 08.10.2021, Planning Statement received 08.10.2021, Report received 08.10.2021 Reference building works near Lb, Heritage Statement received 08.10.2021, Covering letter received 19.07.2022.
- 3) No above ground works except survey work shall take place until arrangements for the management of demolition and construction work have been submitted to and approved in writing by the Local Planning Authority. The arrangements shall include:
 - a) the days of the week and hours of the day when demolition and construction works will take place and measures to ensure these are adhered to;
 - b) procedures for managing traffic movements associated with the construction works including the delivery of building materials to the site (including the times of the day when those deliveries will take place and how/where materials will be offloaded into the site) and for the management of all other construction related traffic and measures to ensure these are adhered to;
 - c) procedures for notifying neighbouring properties of the timetabling of works, the nature of the works and their duration;
 - d) the parking of contractor's vehicles within or around the site during construction and any external storage of materials or plant; and
 - e) controls on noise and dust.The development shall be carried out in accordance with the approved arrangements.
- 4) No development other than demolition or survey work shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed, and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved programme and specification.

- 5) No development other than demolition or site survey work shall take place until details of slab levels have been submitted to and approved in writing by the Local Planning Authority. The details shall include a scaled cross section showing the proposed development in relation to adjacent buildings. The development shall be carried out in accordance with the approved details.
- 6) No above ground development other than demolition or site survey work shall take place until details and samples of materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 7) No above ground development other than demolition or site survey work shall take place until details of the windows and doors, including materials and joinery details, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 8) The dwellings shall not be occupied until the area shown on the submitted layout plan as vehicle parking and turning space has been provided, surfaced and drained. 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.
- 9) If during development significant deposits of made ground or indicators of potential contamination are discovered, the work shall cease until an investigation/remediation strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall thereafter be implemented as approved.

Any soil brought onto the site shall be clean and a soil chemical analysis shall be provided to verify that imported soils are suitable for the proposed end use.

A closure report recording the measures taken to implement the approved strategy shall be submitted to and approved in writing by the Local Planning Authority prior to the occupation of the development.

End of schedule