



Appeal Decision

Site visit made on 27 February 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2024

Appeal Ref: APP/U2235/W/23/3324415

85 Upper Stone Street, Maidstone, Kent, ME15 6HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Mr Olufote against the decision of Maidstone Borough Council.
 - The application Ref is 23/500211/OUT.
 - The development proposed is the demolition of existing buildings and erection of 3(no) dwellinghouses.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal seeks outline planning permission for 3 dwellings, with all matters reserved for future consideration. While detailed plans are before me, I have treated them as illustrative only for the purpose of making my decision.
3. The Council advises that their emerging Local Plan is at an advanced stage. The Council has provided a list of policies from the emerging Local Plan, which they consider are relevant to the appeal. However, the Council does not rely on these emerging policies in their decision. As a result, I have determined the appeal based on the same adopted development plan policies that the Council relied on.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, including trees;
 - highway safety;
 - whether the proposed development would provide acceptable living conditions for future occupants of the development, having particular regard to outlook and the provision of private amenity space; and,
 - the living conditions of occupants of 85 Upper Stone Street (No 85), having particular regard to noise and disturbance.

Reasons

Character and appearance, including trees

5. The appeal site is located within an urban area, just outside of the town centre. The appeal site lies to the rear of a three storey terrace property, which is divided into flats. To the rear of No 85 are several single storey outbuildings, which are in a poor condition. There is also an area of hardstanding, which is used for vehicular parking. The level of land rises significantly towards the rear of the site. A high flank wall of an adjacent building adjoins the southern boundary. To the rear of the site is a row of high conifers. There are further trees adjacent to the northern boundary.
6. The proposal seeks outline planning permission, with all matters reserved for 3 new dwellings. While I appreciate that there is more than one way to develop the site, given the site constraints and surrounding built form, the provision of 3 new dwellings and associated hardstanding would result in an unduly cramped form of development to the rear of the site.
7. The existing trees to the rear of the site are visible from the highway in gaps between buildings and also from surrounding properties. They make a positive contribution to the street scene and add greenery to the urban environment. While the appellant has submitted a tree survey schedule as part of the appeal, there is limited information before me to demonstrate that a scheme for 3 dwellings could be incorporated on the site, without resulting in harm to the root protection areas of existing trees.
8. Furthermore, given the site constraints it does not appear possible to construct 3 dwellings on the site, which would have a satisfactory relationship to the existing trees. As a result of the height and siting of the existing trees, the proposal would result in harm to the living conditions of future occupants, as discussed below. Accordingly, the proposal may result in future pressure to lop, top or fell the existing trees, which currently make a positive contribution to the character and appearance of the area.
9. For the above reasons, I conclude that the proposal would be harmful to the character and appearance of the area and existing trees. The proposal would conflict with Policies DM1 and DM3 of the Maidstone Borough Local Plan October 2017 (the Local Plan). These policies among other things require that development is of high quality design and protects existing trees.
10. I do not find conflict with Policy DM5 of the Local Plan as the proposal would make effective use of previously developed land and no objection is raised by the Council to the density of the proposed development.

Highway safety

11. The appeal site has a narrow vehicular access onto Upper Stone Street (the A229). This part of the A229 is a dual carriageway, containing one way traffic and has a speed limit of 30mph. The A229 is heavily trafficked. There are footways on either side of the road.
12. The Inspector for a previous appeal on this site¹ found that there was no substantive evidence before him to suggest that the access arrangement would

¹ Appeal Ref: APP/U2235/W/21/3274672

cause problems for service and emergency vehicles. Furthermore, there was no objection from the Highway Authority to the previous appeal. In contrast, the Highway Authority has objected to the current appeal scheme and provided evidence to show that there have been 6 reported traffic collisions on or near the site access within the last 5 years.

13. The buildings either side of the existing access are located hard up against the pavement. While the building within the appeal site has a canted corner, the building on the other side of the access has no such feature. Vehicles exiting the appeal site would have limited visibility of pedestrians using the footway and oncoming traffic. The proposal would intensify the number of dwellings on site and would result in an increase in vehicular movements using this substandard access.
14. The access is not wide enough for two vehicles to pass. The accessway is partially obscured from the highway by the surrounding built form. As a result, vehicles approaching the site access would have limited visibility of any vehicle exiting the appeal site until the very last moment. Any vehicle entering the site that encounters an exiting vehicle would have to come to an abrupt halt. This would cause an obstruction on the busy A229. A vehicle may also have to reverse on to the A229 to enable another vehicle to exit the site, which would be harmful to highway safety.
15. For the reasons given above, I conclude that the proposal would be harmful to highway safety. The proposal would conflict with Policy DM1 of the Local Plan. This policy among other things requires that new developments can safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access. The proposal would also conflict with the Framework, which seeks to resist development where there would be an unacceptable impact on highway safety.

Living conditions of future occupants

16. The surrounding built form and trees have an enclosing impact on the rear of the site, which would appear unduly oppressive to future occupants. Consequently, the proposal would fail to provide a satisfactory outlook for future occupants. Furthermore, given the constrained nature of the site and surrounding built form and trees, I am not convinced that the proposal would provide an acceptable standard of private amenity space for future occupants.
17. For the reasons given above, I conclude that the proposal would be harmful to the living conditions of future occupants of the development. The proposal would conflict with Policy DM1 of the Local Plan. This policy among other things requires that new developments provide adequate residential amenities for future occupants of the development. The proposal would also conflict with the Framework, which requires that proposals create places with a high standard of amenity for existing and future users.

Living conditions of neighbouring occupants

18. The proposal would intensify the level of activity and vehicular movements to the rear of No 85. No 85 is sited hard up against the access way, with no defensible space to the rear of the building. The increase in vehicular movements and activity directly to the rear of No 85, including noise from

vehicles and residents and glare from headlights would cause an unacceptable level of noise and disturbance to occupants of No 85.

19. For the above reasons, I conclude that the proposed development would be harmful to the living conditions of neighbouring occupants. The proposal would conflict with Policy DM1 of the Local Plan. This policy among other things requires that development respects the amenities of occupiers of neighbouring properties. The proposal would also conflict with the Framework, which seeks to create places with a high standard of amenity for existing and future users.

Other Matters

20. The proposal would provide additional housing stock within an area which has good accessibility to services, facilities and public transport links. It would also make effective use of previously developed land and replace disused and unkept structures. However, these factors do not outweigh the significant level of harm that I have identified.

Conclusion

21. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, which would outweigh that conflict. Therefore, the appeal is dismissed.

A James

INSPECTOR