



Appeal Decision

Site visit made on 12 March 2024

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 April 2024

Appeal Ref: APP/A2280/W/23/3329590

Land rear of 9-15 Railway Street, Gillingham, Medway ME7 1XF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr D Konuralp of Siltons Ltd against Medway Council.
 - The application Ref is MC/23/0970.
 - The development proposed is described on the application form as 'the construction of a pair of semi-detached mews houses (demolition of existing double garage).'
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a pair of semi-detached mews houses (demolition of existing double garage) at Land rear of 9-15 Railway Street, Gillingham, Medway ME7 1XF in accordance with the terms of the application Ref MC/23/0970, subject to the conditions appended to this decision.

Applications for costs

2. An application for costs was made by Mr D Konuralp against Medway Council. That application is the subject of a separate decision.

Preliminary Matters

3. Since the appeal was lodged, a revised version of the National Planning Policy Framework was published (19 December 2023). This does not materially change the planning policy context in respect of the main issues.

Main Issues

4. A decision notice has not been issued. However, the Council has set out its putative concerns in its appeal statement. Based on these, I consider the main issues to be:
 - the effect of the proposed development on the character and appearance of the site and surrounding area;
 - whether a satisfactory standard of accommodation would be provided for future occupiers, with particular regard to outlook and privacy; and
 - the effect of the proposed development on parking provision and highway safety.

Reasons

Character and appearance

5. The appeal site comprises a surface level car park and domestic garage. It is accessed from Jeffery Street and is positioned to the rear of residential properties fronting Railway Street. Buildings within Jeffery Street and the surrounding area vary in their scale, design and period. There is some consistency to the rear of properties fronting Railway Street, however these, too, have been altered over time. Ultimately, the surrounding area could not reasonably be described as uniform or coherent.
6. Although the proposed dwellings would be positioned within relatively small plots, this would not be atypical in this area. The proposed dwellings would also be positioned relatively close to established properties to the rear (those fronting Railway Street). However, this would not be readily appreciated from the public realm. Set within the varied context described above, the overall scale and appearance of the proposed properties would not appear out of keeping or cramped.
7. Overall, the proposed development would have an acceptable effect on the character and appearance of the site and surrounding area, in accordance with the relevant provisions of Policies H4 and BNE1 of the Medway Local Plan (LP, 2003). These policies, in summary, seek to ensure good design in development that respects its context. This is in a similar vein to the National Planning Policy Framework (the Framework) insofar as good design is concerned.

Standard of accommodation

8. The proposed development would be positioned relatively close to the rear of the established properties which front Railway Street. These properties contain a number of rear-facing windows, positioned towards the appeal site.
9. The rear facing upper floor windows of the proposed dwellings would serve landing areas and bathrooms only. In respect of privacy, those windows are illustrated as being fitted with obscured glass. This could be conditioned. As non-habitable rooms, there would be no expectation of outlook here. From that perspective, there would be no unacceptable overlooking or overbearing impacts in respect of the first floor windows.
10. The rear-facing ground floor windows of the proposed dwellings would serve kitchen areas, open onto the living rooms. However, future occupiers would not rely solely on those rear windows, with additional windows proposed to the front elevation and a glazed door to the side elevation. The existing boundary walls would also limit views from ground floor rooms of existing properties. Moreover, a number of rear-facing windows on the Railway Road buildings are fitted with obscured glazing. Taking all of these mitigating factors into consideration, there would be no unacceptable overlooking or overbearing impacts in respect of the ground floor windows.
11. Whilst the garden areas of the proposed dwellings may experience some overlooking from nearby residential properties, this would not be unacceptable in this urban location, where similar such arrangements are common.
12. Overall, the proposed development would provide an acceptable standard of accommodation for future occupiers, with particular regard to outlook and

privacy, in accordance with the relevant provisions of LP Policy BNE2. This policy, in summary, seeks to secure the amenities of future occupants, including in respect of privacy. This is in a similar vein to the Framework insofar as living conditions are concerned.

Parking provision

13. There is no dispute between the Council and appellant in respect of the proposed car-free nature of the development. I have no reason to disagree with that position, based on the appeal site's sustainable location near to both Gillingham railway station and town centre.
14. The Council's highways objection centres on the site's current use as a car park. The proposed development would undoubtedly result in the loss of this, and the 8 parking spaces that are provided there. The car park is privately owned, and its management is unclear, including in respect of hours of operation, enforcement and users. In my view, the use of that car park could be restricted or lost irrespective of the proposed development.
15. At the time of my mid-week site visit, I noted that a number of on-street parking spaces were available within the surrounding area, including along Jeffery Street, which is subject to parking controls. This correlates with the appellant's submitted Parking Survey Report, which concludes that adequate parking is available in the surrounding area to accommodate any site displacement if the existing car park was lost. There is no substantive evidence before me to demonstrate that any displaced parking would result in dangerous or nuisance parking, effecting pedestrian or highway safety.
16. Overall, the proposed development would be acceptable in respect of parking provision and highway safety, in accordance with the relevant provisions of LP Policies T1 and T13 which, in summary, seek to ensure highway safety and adequate parking provision. This is in a similar vein to the Framework insofar as sustainable travel and highway safety is concerned.

Other Matters

17. I note the comments received from consultees, including from the Council's highways and waste collection specialists. These are matters I return to below, and which do not lead me to an alternative conclusion on the main issues.

Conditions

18. In addition to the standard three-year time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans. This is necessary for certainty. I have imposed a further condition relating to the materials used in construction. This is in the interests of the character and appearance of the area.
19. I have imposed a condition requesting a construction management plan in the interests of the protection of the living conditions of nearby residential uses. I have imposed a condition in respect of obscured glazing in the interests of protecting the living conditions of existing and future residents.
20. I have imposed further conditions relating to cycle parking and waste collection measures to ensure that such facilities are provided for the use of future occupiers.

21. I have not imposed a suggested condition relating to noise as this is unsubstantiated. The referenced railway line is positioned some distance away from the appeal site with intervening road and established housing. I have not imposed suggested conditions relating to contaminated land as there is no substantive evidence before me to demonstrate that such measures are required in this established residential area (noting the recent use for domestic car parking).
22. I have not imposed a condition removing permitted development rights as there is no evidence before me that the use of such rights would be to the detriment of the living conditions of neighbouring properties or the character or appearance of the area. I have not imposed a condition restricting the change of use of the development as this is based on a hypothetical eventuality and no alternative scheme is before me. A suggested condition relating to energy has not been imposed as I have no evidence before me to justify it.
23. In imposing conditions, I have had regard to the tests within the Framework, the Planning Practice Guidance, and relevant statute, and have accordingly amended the wording of certain conditions proposed by the Council without altering their aim.

Conclusion

24. For the above reasons, having had regard to all matters raised, I conclude that the proposed development would accord with the development plan as a whole and therefore the appeal should be allowed.

A Price

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 plan: 001 Rev P4 (combined plans).
- 3) No development above slab level shall commence until details of the materials to be used in the construction of the external surfaces of the development hereby permitted, including boundary treatments, 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.
- 4) No development shall take place, including any works of demolition, until a Construction Management Plan (CMP) has been submitted to, and approved in writing by the Local Planning Authority. The CMP shall provide for:
 - measures to control the emission of dust, dirt, noise, vibration and lighting during construction;
 - arrangements for deliveries;
 - the public display of contact details and advance notification to neighbours and others of proposed works;
 - the restriction of hours of work and all associated activities audible beyond the site boundary only between 0700 and 1900 Monday to Friday, 0800 and 1300 on Saturdays and shall not take place at all on Sundays or on Public or Bank Holidays.

The approved CMP shall be adhered to throughout the construction period for the development.

- 5) The development hereby permitted shall not be occupied until the windows at first floor level on the rear elevation have been fitted with obscured glazing, and no part of those windows less than 1.7 metres above the floor of the room in which they are to be installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the windows are installed and once installed the obscured glazing shall be retained thereafter.
- 6) No part of the development hereby permitted shall be occupied until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority. The cycle storage facilities shall be implemented in accordance with the approved details, made available for use prior to the first occupation of the dwellings and retained thereafter.
- 7) No part of the development hereby permitted shall be occupied until details of refuse and recycling storage facilities have been submitted to and approved in writing by the Local Planning Authority. Details shall include arrangements for both existing and proposed refuse and recycling needs. The facilities shall be implemented in accordance with the

approved details, made available for use prior to the first occupation of the dwellings and retained thereafter.

END OF SCHEDULE