



Appeal Decision

Site visit made on 13 May 2024

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd May 2024

Appeal Ref: APP/E2205/W/23/3328278

New Blue Barn Store, Ashford Road, St Michaels, Tenterden, Kent TN30 6PR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 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 Del Athwal against Ashford Borough Council.
 - The application Ref is PA/2023/0381
 - The development proposed is for the demolition of former Costcutter store and erection of 1 No detached 3-bed dwelling and 1 No 3-4 bed dwelling with associated amenity gardens and parking.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For clarity and certainty, the description of development above is that given on the appellants appeal form.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.
4. The Council has brought to my attention that there may have previously been a protected tree on the appeal site. In addition, the appellant suggests that he was misled by the Council as to the acceptable scale of the proposal in pre-application discussions, which he also considered to have been laborious in nature. However, these are matters for the parties and not for my consideration as part of this appeal.
5. The appellant has confirmed that the neighbouring property of 'Kenmure' is within his control and has submitted sightline and vehicle tracking drawings to the Council, which are noted.

Main Issues

6. The main issues in this appeal are the effect of the proposal on:
 - the character or appearance of the St Michaels Conservation Area (CA),
 - the living conditions of future occupiers; and,
 - highway safety.

Reasons

Conservation Area

7. The appeal site is partly located in the CA to the north of Ashford Road near to the junction with Swain Road and is occupied by a vacant, single-storey commercial building. The site was formerly part of the garden space associated with the neighbouring dwelling of 'Kenmure'.
8. As one of the proposed dwellings and part of the site would be in a Conservation Area, I have paid special attention to the desirability of preserving or enhancing the character or appearance of that area, as set out in section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
9. The CA is predominantly typified by a range of well-spaced residential dwellings facing the road with sizeable gardens to the front and rear that are built in traditional materials, such as white weatherboarding and slates. For example, but not limited to, the dwellings seen along Grange Road. This helps to retain a sense of spaciousness in the surrounding area.
10. The proposal has a reduced number of dwellings in comparison to previous schemes for the site¹ and the fenestration layout has been altered. Moreover, the proposed development has the support of Tenterden Parish Council and would be built in traditional style materials with new planting and fencing. Furthermore, while lying outside the CA, the layout and frontage of Plot 1 would be similar to the neighbouring dwelling of 'Kenmure'. Development of the site would result in the removal of a dilapidated building and also be likely to reduce its vulnerability to vandalism and other anti-social behaviour.
11. However, while the garden spaces would be relatively small, the combined footprint and parking spaces of the two dwellings would extend across a large proportion of the site. Therefore, the two-storey proposal would appear as a highly prominent and cramped addition to 'Kenmure's' severed garden space. Indeed, while the constraints of the drainage system and irregular shape of the site are noted, the scale and mass of the staggered two dwelling proposal would create a sense of enclosure on this important corner location in the CA, which is typified by dwellings set on generous garden plots. Furthermore, even though Plot 2 would be located to the more tranquil part of the site, the fact remains when viewed from Ashford Road it would only be partly visible to the right-hand side of Plot 1. Consequently, it would be at odds with the wider and prevailing pattern of development, which is characterised by dwellings that face directly on to the main highway.
12. I conclude therefore, that the proposal would fail to preserve or enhance the character and appearance of the CA.
13. Consequently, in respect of the CA, the proposal would be contrary to Policies SP1, SP2, SP6, HOU3a, HOU15, ENV14, TRA7 and the SPD Residential Space & Layout (2011) (External Space) of the Ashford Local Plan, 2019 (ALP) which say, amongst other things, that all development proposals must be of high-quality design and demonstrate a careful consideration of and a positive response to character, distinctiveness and sense of place.

¹ 21/00891/AS and 21/01548/AS

14. For similar reasons, the proposal does not meet the aims of Paragraph 135 (c) of the Framework which says, amongst other things that planning policies and decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment.

Living conditions

15. The proposed dwellings would have gardens that would be smaller than the Council's desired minimum. Indeed, the location of the gardens next to an access way and an adjacent office building would not be attractive to every household. For example, to families with young children. Nevertheless, the dwellings might suit other households who prefer a well-connected location but find gardening a chore.
16. Moreover, although compact, the gardens would be useable for activities such as drying clothes, dining and sitting out. Furthermore, for leisure purposes and recreation there is a park relatively nearby. Ultimately, it is a matter of choice for prospective occupiers and does not justify dismissal of the appeal.
17. Therefore, in respect of the living conditions of future occupiers, the proposal would accord with Policy HOU15 of the ALP which says, private useable external open space shall be provided.
18. For similar reasons, the proposal would meet the aims of Paragraph 135 (f) of the Framework, which identifies that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Highway safety

19. There would be two vehicular access points with dropped kerbs to and from the appeal site. The entrance of the site on Swain Road would be used for access and the exit would open onto Ashford Road. Nonetheless, as a matter of convenience, or as a consequence of vehicular conflict within the confined site, from time to time it is likely that drivers would be tempted to access the site from Ashford Road or reverse on to Swain Road.
20. Moreover, in comparison to the single access and more infrequent commercial van deliveries previously associated with the site, the domestic vehicular activity by the occupiers and multiple visitors to the two-dwelling scheme would occur at various times of the day and night for the purposes of commuting or socialising. As such, there would be increased potential for the vehicles to come into conflict with any pedestrians on the surrounding footways or with traffic on the well-used Ashford Road and the vehicles travelling along Swain Road. I conclude therefore, that the proposal would harm highway safety.
21. Therefore, in respect of highway safety, the proposed development would not meet the aims of Policy HOU3 of the ALP, which requires that developments must be able to be safely accessed from the local road network, and Paragraph 114 (b) of the Framework which says that it should be ensured that safe and suitable access to the site can be achieved for all users.

Planning Balance

22. Paragraph 205 of the Framework states that great weight should be given to a heritage asset's conservation, and that this is irrespective of whether harm is substantial or less than substantial. I have found that the proposed development would fail to preserve or enhance the character and appearance of the CA. In accordance with Paragraph 209 of the Framework, I am required to assess the extent of such harm. I find that the harm to the CA would be 'less than substantial'. Where a development proposal will lead to less than substantial harm to the significance of designated heritage assets, Paragraph 208 of the Framework is clear that this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
23. As such, the proposal would include local employment opportunities connected to the construction of the development. As these opportunities would be short-term, I can only attribute this limited weight.
24. The occupiers of the new dwellings would be likely to patronage local services and businesses. Given the small-scale nature of the scheme I afford this little weight.
25. The Council cannot demonstrate a 5 Year Housing Land Supply (HLS). However, as the development would be located in the CA, the 'tilted balance', is not engaged. Even if this were to be otherwise, I only ascribe minimal weight to the construction of a relatively low number of dwellings against the Council's overall HLS. For similar reasons, only limited weight can be given to the fact that the new dwellings would have electric vehicle charging points.
26. The development would have some new planting including trees and hedges. Even though limited in extent, as this would be likely to improve biodiversity on the site, I afford this moderate weight.
27. Overall, in accordance with the balancing exercise contained in Paragraph 208 of the Framework, I conclude, even when considered in combination, that the benefits of the proposal do not outweigh the 'less than substantial harm' to the CA.

Other Matters

28. The appeal site is located near to the Grade II listed building known as 'Isleden' which is of a traditional design and has spacious gardens to the front and rear. However, as the proposal would be relatively distant and not directly opposite the appeal site, I conclude that the proposal would have a neutral effect on the setting of the listed building.

Conclusions

29. Whilst I have found in favour of the appellant on the second main issue, this does not justify the harm identified on the first and third main issues. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

J E Jolly

INSPECTOR