



Appeal Decision

Site visit made on 12 November 2024

by Mr R Walker BA HONS DIPTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 4th December 2024

Appeal Ref: APP/U2235/W/24/3344791

Land Adjacent 11A Beaconsfield Road, Tovil, Maidstone, Kent ME15 6RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Roger Phipps against the decision of Maidstone Borough Council.
 - The application Ref is 24/500302/FULL.
 - The development proposed is demolition of existing industrial building, garage and storage shed, and erection of 3no. detached dwellings with associated parking and communal amenity area with undercroft storage.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr Roger Phipps against Maidstone Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. The Council's decision notice refers to policies from the Council's Local Plan (2017). However, this has been replaced by policies of its Local Plan Review (LPR) (2024). Accordingly, I have referred to these replacement policies in my decision.

Main Issues

4. The main issues are the effects of the proposal on:
 - The character and appearance of the surrounding area; and
 - The living conditions of future occupiers of the development with particular reference to outlook and sunlight.

Reasons

Character and appearance

5. The appeal site is positioned between land to the rear of properties fronting onto Beaconsfield Road and the River Medway. Properties fronting onto Beaconsfield Road are characterised by two storey dwellings predominantly terraced housing. In contrast, buildings along this part of the river are characterised by larger buildings including blocks of flats and three storey blocks of town houses.

6. Despite the presence of the larger blocks of buildings on the south side of the river, the gaps between these buildings, and planting along the river and between buildings, results in an attractive verdant area in views from the riverside footpath. This contrasts with the northern side of the river where larger blocks of flats dominate close to the footpath, with small gaps giving the impression of an almost continuous line of built development.
7. The appeal site forms part of a gap between Nos 6-10 The Boatyard and a large block of flats. Whilst there are structures in the appeal site, they are low lying modest single storey structures. Due to the height of the structures and the undeveloped parts of the site, it retains an open quality that contributes positively to the spacious, verdant qualities between buildings on the southern side of this part of the river.
8. Due to the height, layout and number of dwellings, the proposed development would result in a significant reduction in the open gap between Nos 6-10 The Boatyard to the west and the large block of flats to the east. The three dwellings would be positioned very close to the boundary to the east and approximately 12m from the rear elevations of the rear building line of the town houses. Unit One would also be positioned very close to the boundary to the south as well as the eastern boundary. Taken together, this would result in a cramped incongruous form of development, which would result in significant harm to the character and appearance of the area when viewed locally in private views and from the riverside footpath.
9. The proposed development would not encroach nearer toward the river than the properties in the Boatyard and the design would draw from features found locally. Moreover, the scheme includes the retention and enhancement of an area of land immediately adjacent to the river. This landscaping would be a benefit. However, given the scale of the buildings proposed, their elevated position above the river, time to establish the planting and as the views would still be possible through foliage at times of the year, I do not consider this landscaping to mitigate my concerns from the riverside footpath. Moreover, the additional landscaping would not mitigate my concerns in relation to private views of the proposed development. In this regard, it would still be an undesirable incremental change that would erode the overall character and quality of the area.
10. To conclude on this main issue, the proposed development would harm the character and appearance of the surrounding area. I therefore find conflict with the requirements of Policies LPRSS1, LPRSP2 and LPRSP15 of the LPR, when taken together and in so far as they relate to this main issue. These seek, amongst other things, high quality design that responds positively to, and where possible enhance, the local, natural, or historic character of the area.
11. The Council have also referred to Policy LPRQD7 of its LPR, which relates to the size of outdoor amenity space and have explained that they did so in relation to this main issue. However, the supporting text for this policy discusses the standards in the context of providing the future occupiers adequate space rather than in relation to character and appearance. As such, this policy has not been decisive in my consideration of this main issue.

Living conditions

12. The east and southern elevations of the proposed dwellings would have no windows, whilst the west elevations would only have one window and one door on the ground floor. This means the outlook from each dwelling would be concentrated around the northern elevations. Whilst Unit Three would have an open aspect toward the river, Units One and Two would face directly towards the blank wall of one of the proposed dwellings. Moreover, the gardens of Units One and Two would also be positioned between the host building and the neighbouring property. Due to the height, length, and close proximity of the buildings this would result in an unduly enclosed environment.
13. This would be exacerbated by the orientation of the gardens to the north of each of these properties reducing the extent of sunlight that would be received. I have no substantive evidence regarding the extent of morning and evening sunlight that would be received in the gardens. Nonetheless, given the orientation, size and location of the gardens, and sense of enclosure, I find that the future occupiers of Units One and Two would have unacceptable living conditions.
14. As Unit One would have an open aspect toward the river, on balance, the living conditions of this property would not be unacceptable despite its predominantly single aspect in a northerly direction, size and location of its outdoor amenity space.
15. My attention has been drawn to the layout of the housing in The Boatyard to the east. However, whilst they have small gardens, they are attached properties, with open aspects to the front, and open aspects from the upper floor windows to the rear either over the open parts of the appeal site, the single storey structure or towards trees. In this regard, whilst parts of the properties would have a similar sense of enclosure, the houses taken as a whole, would not have the same poor level of outlook that would be felt at Units One and Two in the proposed development.
16. To conclude on this main issue, the living conditions of future occupiers of the development would be unacceptable with particular reference to outlook and sunlight. As such, I find conflict with the requirements of Policy LPRSP15 of the LPR, in so far as it relates to this main issue. This seeks, amongst other things, high quality design that provide adequate residential amenities for future occupiers of the development by ensuring that proposals do not result in, or its occupants are exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking, or visual intrusion, or loss of light to occupiers.

Other Matters

17. The Council's reasons for refusal refers to Policy DM9, amongst others, which has been replaced by Policy LPRHOU2 of its LPR. However, this relates to proposals for the extension, conversion or redevelopment of a residential property, which is not the case in this instance. As such, it has not been decisive in my considerations and does not alter my findings in relation to the conflict I have identified with the development plan.

18. Notwithstanding the Council's current housing supply position, the proposal would deliver an additional three dwellings, boosting the supply of market housing, locating and building sustainably and making effective use of land including on previously developed land. These are matters that are supported by the National Planning Policy Framework (2023). Nonetheless, the overall social and economic benefits would be modest given the scale of the proposed development.
19. The proposed development would result in the removal of the existing activities on site which could generate noise and disturbance. However, I have no substantive evidence of any existing or historical noise complaints from the activity on site. Whilst I'm told that there is nothing to preclude a more intensive operation on site, there is nothing before me to indicate any such operations are a realistic likely fallback position, moderating the weight I give to this matter. The absence of harm in relation to other considerations weigh neither for nor against the proposal.
20. Concerns regarding the processing of the application, including matters relating to omissions within the delegated report, do not alter the planning merits of the proposed development.
21. The main parties disagree as to when the adjacent development was completed. I also note that a resolution to grant an alternative scheme was previously made by the Council. Moreover, the appellant has made changes to their scheme with the view to finding a solution. However, these are not decisive considerations in my assessment and do not alter the harm I have identified from the plans that were before the Council when they made their decision and having regard to the current planning policies.

Conclusion

22. For the reasons given above, the proposal would conflict with the development plan and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

Mr R Walker

INSPECTOR