



Appeal Decision

Site visit carried out on 17 February 2025

by Jennifer Vyse DipTP MRTPI DipPBM

an Inspector appointed by the Secretary of State

Decision date: 24 March 2025

Appeal Ref: APP/A2280/W/24/3354396

63 Woodlands Road, Gillingham ME7 2DU

- 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 Abdul Mumtaz against the decision of Medway Council.
 - The application No is MC/23/2793.
 - The development proposed is the construction of a detached block of seven studio flats.
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Decision

1. For the reasons that follow, the appeal is allowed, and planning permission is granted for the construction of a detached block of seven studio flats at 63 Woodlands Road, Gillingham, in accordance with the terms of the application, No MC/23/2793, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The application was recommended for approval by the planning officer. However, that recommendation was overturned by Members and permission was refused.
3. In light of concerns raised in relation to parking provision in the area, I visited the site twice on the same day – once in the afternoon and again in the evening.
4. Although the Council's Decision Notice includes a reason for refusal relating to amenity space provision, its appeal statement does not address the matter. Whilst the appellant takes that as an indication that the Council is not defending that reason for refusal, it is not clear that that is necessarily the case. In the interest of fairness, I have dealt with the matter as a main issue.

Main Issues

5. The main issues in this case relate to the effect of the development proposed on highway safety, and whether future occupiers would be provided with acceptable living conditions in terms of outdoor amenity space provision.

Reasons for the Decision

6. The appeal site comprises a corner plot at the traffic light-controlled junction of Woodlands Road with Canadian Avenue and Cornwallis Avenue. The site is currently occupied by a three-storey building, housing a local convenience store on the ground floor, with 4 x one-bed one-person studio flats above,¹ to the side of which is a small surface car park that is accessed from Canadian Avenue via a dropped kerb. It is proposed to erect a two and a half storey block of seven x one-person studio flats on the car park area.

¹ Application No MC/05/0200. Allowed at appeal APP/A2280/A/05/1179729

Highway Safety

7. The scheme would result in the loss of the existing car park. Whilst one cycle storage space per flat is accommodated within the proposed development, no off-street parking is proposed, with both the existing and proposed development intended to be car-free.
8. Policy T13 of the Medway Local Plan (2003) expects parking provision to be made in accordance with adopted standards. The current standards are found in the Council's Residential Parking Standards 2010. Whilst the Standards seek a maximum of seven off-street bays for the proposed flats, they do allow for reductions in parking provision where a development is within an urban area with good links to sustainable transport and where day-to-day facilities are within easy walking distance.
9. In coming to a view on this, I am aware that the Council's census data indicates an average car ownership per household of 0.43 vehicles for flats. However, we are looking here specifically at one-person, one-bedroom studio flats. The appellant draws attention, in this regard, to a recent permission granted by the Council for a couple of flats in Gillingham.² In that case, the officer's report states that *'given the site's highly sustainable location and general nature of smaller size flat occupancy in urban areas, the site presents itself to occupiers who do not typically possess cars.'* Whatever the circumstances of that case, I see no reason why the same sentiment would not hold true here. Indeed, the officer's report in relation to this appeal which notes that one bed units in this location could lend themselves towards attracting residents who do not own cars.
10. The appeal site, which itself contains a local convenience store, lies within the urban area of Gillingham, around ten minutes' walk from a local village centre on Sturdee Avenue. It is also less than 50m from a bus stop, with links into Gillingham and Rochester where there are a wide range of facilities and amenities, plus train stations (Gillingham train station is approximately 1.5km away) with high-speed links into London and wider connections across the south-east coast. Having regard to the nature of the proposed accommodation and its location within an urban area, where future occupiers would have ready access either by walking and/or by sustainable transport modes to the services and facilities that might be required on an everyday basis, I consider that the development proposed would not result in a material increase in demand for on-street parking spaces, with no consequential threat to highway safety.
11. Although the Highway Authority raised no objection in terms of the absence of any parking provision for the proposed development, it did make reference to the loss of the parking provision for the existing flats above the convenience store on the site, querying where that would be displaced to, suggesting the need for a parking beat survey. The Council's concerns in relation to parking demand, are focussed on evening and night-time parking, as opposed to day-time parking.
12. As set out in the officer's report, the subsequent parking beat survey, carried out on behalf of the appellant, indicates on-street parking occupancy in the area of some 88%, although the Council's statement of case refers to the survey demonstrating

² MC/24/1261

existing on-street parking stress of 100-102%. Whatever, the correct figure, it is clear that this is an area under significant parking stress.

13. No figures for usage of the existing car park are before me. However, from my own observations, even at night-time, I saw the car park was very lightly used, with one vehicle that had clearly been in position for some time, plus one other car. I am also mindful that approval for the existing development pre-dates the current parking standards operated by the Council, standards that specifically allow for a reduction in parking provision in urban areas such as this. I see no reason in this regard, why the same considerations that I have applied to the proposed development should not apply to the existing flats on the site. I am also mindful, in this regard, that the existing accommodation on the appeal site is under the control of the appellant, who has expressly agreed to securing both blocks as car-free schemes. When considered in the round, I see no reason why, subject to conditions, the development proposed would necessarily lead to a material increase in demand for on-street parking in this area of existing parking stress.
14. The Council refers to road traffic accident records in the vicinity of the appeal site, which it fears might increase as a consequence of any increase in demand for on-street parking. However, as noted by the appellant, only one mentions a parked car. Even then, there is no mention of it being illegally or dangerously parked. Moreover, all reported incidents occurred during daylight hours, a time when parking stress in the area is not identified as an issue. The accident records before me do not indicate a highway safety issue caused by parking stress but, in any event, I have found that the development proposed would be very unlikely to give rise to increased demand for on-street parking in the area.
15. Given the type of existing and proposed accommodation, namely one-bed, one-person flats, and the sustainability of the location in terms of ready access to everyday services and facilities, together with the use of a parking management plan, which can be secured by condition, I consider that in this instance, flexible application of the Parking Standards is justified. I find no harm in this regard, in terms of any material increase in demand for on-street parking, with no consequential adverse impact on highway safety. I find no conflict therefore, with policy T13 of the Medway Local Plan (2003) which seeks to protect such interests. There would be no conflict either with paragraph 116 of the revised National Planning Policy Guidance, which advises that development should only be prevented or refused on highways grounds if there would be unacceptable impact on highway safety, or cumulative impacts would be severe.

Living Conditions for Future Occupiers

16. Among other things, Local Plan policy BNE2 states that all development should secure the amenities of future occupants, with the Council's Housing Design Standards (interim) (2011) stating that 1-2 person flats should have a minimum of 5sqm of private outdoor space.
17. Whilst the ground floor units (Nos 1-3) have policy compliant private amenity space, the other four flats have no such provision. However, the Standards do allow that where it is not suitable to provide balconies, patios, or terraces, amenity needs can be met with an internal space of the same size. There is no dispute in this regard, given the existing characteristics of the locality and the potential impacts of balconies on the amenities of adjoining occupiers in terms of their privacy, that

such provision would be unacceptable. That said, the proposed flats are just the minimum size of 37sqm required for 1-person studio flats by the Technical Housing Standards – Nationally Described Space Standard (Technical Housing Standards). They do not include any additional internal space to mitigate the absence of outdoor amenity space.

18. It would seem, however, that the Council does not always require external amenity space for flats, as evidenced by recent approvals for studio flats at other locations within the District, drawn to my attention by the appellant.³ In those cases, departure from the Standards was justified apparently on the basis that the flats were small units and did not require the same level of space as for a family home and/or were near to a large area of public open space. I see no reason why the same should not apply here. The units proposed are single person studio flats, not family homes, with Rookery Fields Park and Gardens, a large area of public open space, being around two minutes' walk to the south of the appeal site. I am content in this regard, that although the conflict with the guidance in the Council's Housing Design Standards is not ideal, living conditions for future occupiers would, nevertheless, be acceptable in this regard. I therefore find no conflict with policy BNE2.

Other Matters

19. Although not a concern of the Council, local residents raise objections in relation to additional matters, including the effect of the development on the character and appearance of the area, noise and disturbance, loss of privacy, and effect on daylight/sunlight.
20. The surrounding area is predominantly residential. Although the existing building on the site is three storey, adjoining dwellings tend to be two storeys in height, many with accommodation in the roof space. The proposed development would have a pitched roof, with the top two flats being accommodated within the roof space, maintaining the general appearance of a 2½ storey development. The overall height and scale of the building, which would have the appearance of a short terrace or a pair of semi-detached dwellings, responds appropriately to its surroundings, with the eaves and ridge line generally following that of the neighbouring properties, whilst making efficient use of the site. The street elevation includes two gabled dormer features within the roof, reflecting gable features on dwellings in the locality. I consider that the development responds well to the character of the existing street and find no harm in this regard.
21. The proposed block would lie to the east of the dwelling at No 76 Canadian Avenue, to the north of the rear garden to No 61 Woodlands Road. As confirmed in the officer's report, that relationship with its neighbours raises no issues in terms of overshadowing or loss of light.
22. The rear garden to No 61 runs along the rear boundary of the appeal site which is set at a lower level than the rear garden. Whilst the development proposed would extend along the length of the adjacent garden, the first and second floors are set some 4.2m off the shared boundary, with the parapet to the single storey element shown at a similar height to the existing, elevated, boundary fence. In my view the

³ 4 Batchelor Street (MC/23/0686); Land rear of Jeffrey Street (MC/23/2412); and 4 Balmoral Road (MC/22/0166)

- arrangement proposed would ensure that the proposed development would not be seen as unduly overbearing when viewed from No 61 or its rear garden.
23. Four windows and four roof lights to the upper floors would face across the rear gardens of Nos 61 - 55 Woodlands Road. However, the first-floor windows would serve a circulation/landing space and a hallway and kitchen to unit 05. The submitted plans show all four windows as high level and obscure glazed, removing opportunities for overlooking. The rear facing rooflights to the second floor are also shown as high level and, being set within the sloping roof plane, views out would be upwards. Whilst not obscure glazed, the height and upward viewing angle would again remove opportunities for overlooking.
24. The proposed block would be adjacent to the existing block on the site, which has windows on the side facing the appeal building site –approximately 2.6m (communal stairway) and 5.5m (bedroom and bathroom) away from the adjoining flank. The stairway and bathroom windows do not serve habitable rooms, with the bathroom windows being obscure glazed. There would be no privacy issues in this regard.
25. The bedroom windows in the existing block are already impacted by the return of the existing rear stairwell, which the Council advises intercepts the BRE-45-degree line of outlook from the first and second floor windows. The set back of the upper floors on the development proposed means that whilst it would be seen from the bedroom windows, it would not have an unacceptable impact on outlook for existing occupiers, or on daylight/sunlight, with views from those windows directed along the rear elevation.
26. Being mindful of the proximity of the site to neighbouring dwellings, and the potential for construction works to result in noise, a condition requiring a Construction Environmental Management Plan would help mitigate concerns relating to noise, disturbance and dust.
27. On a separate matter, the appeal site lies within 6km of the North Kent Marshes Special Protection Areas (SPAs)/Ramsar sites, which are subject to statutory protection under the Habitats Regulations⁴. The Regulations impose a duty on the competent authority to consider whether a proposed development may have a significant effect on the conservation objectives of such sites either alone, or in combination with other plans and projects within the framework of an Appropriate Assessment (AA). While the increase in recreational activity resulting from the development alone would be likely to be limited in terms of disturbance that would be detrimental to over-wintering or breeding birds, it is likely that in combination with other developments, the proposal could have a significant impact on the integrity of the SPA/Ramsar sites.
28. However, the Council seeks financial contributions from new development to fund mitigation measures identified through the North Kent Strategic Access Management and Monitoring Strategy (SAMMS), with a tariff specified per dwelling. I understand that this approach is endorsed by Natural England. In this regard, the officer's report indicates that an appropriate SAMMS Mitigation Contribution Agreement and payment has already been made by the appellant.

⁴ The Conservation of Habitat and Species Regulations 2017

29. Given the evidence before me, I am satisfied that the money would be used for its intended purpose, securing necessary mitigation measures, with the mitigation being effective to adequately overcome any adverse effects of the proposal on the qualifying features and conservation objectives of the protected areas. In light of the forgoing, and following an AA, I find that the proposal would not adversely affect the integrity of the SPA/Ramsar sites. There would be no conflict therefore, with Local Plan policies S6 and BNE35, which I understand seek to protect such interests, or with paragraphs 193-195 of the revised Framework.

Conclusion

30. I have found that whatever the current on-street parking pressures in the area, the intended car-free nature of the development proposed is allowed for by the Council's Parking Standards in highly accessible, sustainable urban locations such as this. That consideration applies both to the development proposed and the existing accommodation on the appeal site. I find no material harm in terms of implications for highway safety. I have also found no harm in terms of any adverse impact on the character or appearance of the area. Mitigation dealing with potential impact on the nearby SPA/Ramsar sites is secured through payment already made to the Council pursuant to the North Kent SAMMS. Therefore, for the reasons set out above, I conclude that the appeal should succeed.

Conditions

31. In addition to the standard time limit on commencement of development (1), a condition specifying the relevant plans is required in order to create certainty for all parties (2).
32. Details of external materials are required in the interest of visual amenity, as supported by Local Plan policy BNE1 (3). Given the constrained nature of the site, and the residential nature of the area, it is necessary to secure a Construction Environment Management Plan in order to protect the living conditions of nearby residents during the build process, pursuant to Local Plan policy BNE2 (4). This is necessarily worded as a pre-commencement condition, since the matters it deals with could have implications for the construction process from the outset.
33. A Parking Management Plan is needed in order to minimise, as far as possible, the potential for increased demand for on-street parking as a consequence of the approved development, in the interest of highway safety, and to encourage sustainable transport choices, as supported by Local Plan policies T13 and BNE2 of the Local Plan (5).
34. One of the conditions suggested by the Council requires details of individual cycle storage lockers. However, as clearly shown on the approved plans, only the three ground floor units have individual cycle lockers. The cycle parking for the other four flats is provided in a secure, shared, ground floor facility. There is nothing before me to indicate that the arrangement shown would not be suitable. I have therefore amended the suggested wording, so that it only requires provision prior to first occupation and retention thereafter. The condition is necessary in the interest of encouraging sustainable travel choices pursuant to policy T4 of the Local Plan (6).
35. In the interest of general amenity, the bin storage shown on the approved plans (an enclosed facility for 4 x 1100 litre bins) is also to be made available prior to first occupation of any flat, supported by Local Plan policy BNE2. Although the

Council's suggested wording cross-references the Design and Access Statement, I find no reference to bin storage arrangements in that document and have amended the wording accordingly (7).

36. Medway Council has declared a Climate Change and Biodiversity Emergency. In light of that, a condition is required to secure implementation of the measures set out in the Climate Change and Energy Efficiency Statement included within the Design and Access Statement, in the interests of sustainability and to positively address concerns regarding climate change in accordance with paragraph 164 of the National Planning Policy Framework 2024 (8).
37. Condition (9), dealing with the potential for unexpected contamination, is necessary to ensure that any site contamination is remediated and that any risks from contamination are properly dealt with in order to protect the health of future occupiers and to prevent pollution of the environment, pursuant to Local Plan policy BNE23.
38. In order to protect the privacy of adjoining occupiers pursuant to Local Plan policy BNE2, a condition is necessary to ensure that all the first-floor rear-facing windows are fitted with obscure glass, with no opening lights other than top-hung lights with a cill height of not less than 1.7 metres above the internal finished floor level of the space/room it serves (10).

Jennifer A Vyse
INSPECTOR

SCHEDULE OF CONDITIONS

APP/A2280/W/24/3354396

63 Woodlands Road, Gillingham ME7 2DU

- 1) The development hereby permitted shall begin no later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Received 14 December 2023:

Site Plan

002 REV P1 - Proposed Site Plan with Ground Floor Layout

003 REV P1 - Proposed Site Plan with First Floor Layout

005 REV P1 - Proposed Ground Floor and First Floor Plans

Received 20 June 2024:

004 REV P2 - Proposed Site Plan with Second Floor Layout

006 REV P2 - Proposed Second Floor and Roof Plan

007 REV P2 - Proposed Elevations

008 REV P2 - Proposed Elevations

009 REV P3 - Proposed Sections
- 3) No development above slab level shall take place until details and samples of all external materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out at all times in accordance with the approved CEMP. The CEMP shall include, but is not confined to, details of:
 - hours of construction working, including delivery/collection times from the site;
 - measures to prevent vehicles from idling when not in use/waiting;
 - measures to control noise affecting nearby residents;
 - parking plan for any associated vehicles;
 - wheel cleaning/chassis cleaning facilities;
 - dust control measures;
 - pollution incident control and site contact details in case of complaints.
- 5) Prior to first occupation of any flat hereby permitted, a Parking Management Plan shall be submitted to and approved in writing by the local planning authority. The Parking Management Plan shall contain details of how

residents, and their visitors, will be deterred from parking on street. The Parking Management Plan shall be implemented in accordance with the approved details prior to the first occupation of any flat and shall thereafter be retained.

- 6) None of the flats hereby permitted shall be occupied until the cycle storage spaces shown on Plan No 005 REV P1 Proposed Ground and First Floor Plan (received 14 December 2023) have been provided in accordance with the approved details. The approved spaces shall be retained for their intended purpose thereafter.
- 7) None of the flats hereby permitted shall be occupied until the refuse storage shown on drawing number 005 REV P1 Proposed Ground Floor and First Floor Plan (received 14 December 2023) has been provided in accordance with the approved details. The approved refuse storage shall be retained for its intended purpose thereafter.
- 8) The development hereby permitted shall incorporate the measures to address energy efficiency and climate change as set out within the Climate Change Statement on page 21 of the Design and Access Statement received on 14 December 2023. None of the flats hereby permitted shall be occupied until a verification report prepared by a suitably qualified professional has been submitted to and approved in writing by the local planning authority, confirming that all the approved measures have been implemented.
- 9) If, during development, contamination not previously identified is found to be present at the site, no further development shall take place until a Method Statement detailing how that unsuspected contamination will be dealt with, has been submitted to and approved in writing by the local planning authority. Development shall thereafter be carried out in accordance with the approved Method Statement.
- 10) The first floor rear-facing windows serving the circulation/landing space and the hallway and kitchen to unit 05, as shown on drawing numbers 005 REV P1 Proposed Ground Floor and First Floor Plan (received 14 December 2023) and 008 REV P2 Proposed Elevations (received 20 June 2024), shall be fitted with obscure glass and, apart from any top-hung light that has a cill height of not less than 1.7 metres above the internal finished floor level of the space/room it serves, shall be non-opening. This work shall be completed before first occupation of any flat above ground floor level and the windows shall be retained in the approved format thereafter.

-----End of Conditions Schedule-----