



Appeal Decision

Site visit made on 23 April 2025

by **A Wright BSc (Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 May 2025

Appeal Ref: APP/A2280/W/24/3354046

Land rear of 76 Maidstone Road, Chatham, Kent ME4 6DG

- 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 Messrs Islam and Khan against the decision of Medway Council.
 - The application Ref is MC/23/1012.
 - The development proposed is the construction of a terrace of three residential dwellings with associated parking and bin store and including widening of existing access drive, provision of retaining wall to drive, demolition of garage and of single storey side projection to existing dwelling at 76 Maidstone Road to accommodate widened drive.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The National Planning Policy Framework (the Framework) was revised, and the 2023 Housing Delivery Test (HDT) results were published in December 2024. As these could affect the matters in this case, the Council and the appellants were invited to make further comments. Only the Council responded. My decision reflects the latest versions of these documents, and the response received.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal site lies within a predominantly residential area, comprising much of the large rear garden and garage for 76 Maidstone Road (No 76). There is a mix of types and designs of buildings locally, but sizeable properties facing the road with long rear gardens containing trees predominate, giving the area behind the structures a verdant, undeveloped and spacious character. There is a small terrace of houses facing Riverview Close via which the site is accessed, though these do not project further back than some other buildings facing the road. A lime tree protected by a Tree Preservation Order (TPO) lies in front of No 76, near to where Riverview Close joins Maidstone Road.
5. The proposal is for a terrace of two storey dwellings, with a large turning head and six car parking spaces in front. The proposed building would extend across much of the width of the site, be over 10m deep and have pitched gable roofs with ridge heights exceeding 8m. Due to the significant scale and height of the proposed structure, the new houses would dominate the largely undeveloped rear garden environment.

6. There would be adequate separation distances between the existing and proposed dwellings and sufficient outdoor space would be provided. Nevertheless, the position of the proposed dwellings some distance behind the existing ones would not reflect the prevailing pattern of properties facing or close to Maidstone Road. Due to the size and footprint of the proposed houses and the extent of hard surfacing in front of them, the scheme would appear as a cramped form of development at odds with the currently spacious rear garden character. Although the proposed development would be partly screened by some retained trees, it would be incongruous in glimpsed views from the road and from the rear facing windows of neighbouring properties.
7. Several trees along the north boundary, including mature sycamores of moderate quality and value, would be removed to accommodate the proposed development. As the turning head and parking spaces would occupy much of the area in front of the new building, there would be little space for planting replacement trees. The extent of the proposed built footprint and hard surfacing together with the loss of landscaping would harm the green character of the area.
8. The proposed turning head would be close to a large leyland tree in the neighbouring rear garden which has a significant crown spread that extends into the appeal site. Although the Arboricultural Report (AR) assesses this tree as being of low quality and value, it is in good condition, has a long remaining lifespan and is a significant landscape feature in the rear garden environment. It is indicated that this tree would be retained. However, given the proximity of the proposed hard surfaced area to this tree, I cannot be certain that the scheme would not harmfully damage its roots or necessitate crown pruning, exacerbating the adverse impact of the proposal on the area's verdant appearance.
9. The AR indicates that the lime tree in front of No 76 has moderate quality and value. Whilst it has been pollarded, the lime is a mature tree in good condition with a long life expectancy and positively contributes to the street scene, justifying its protection via the TPO. Whilst the new dwellings would be some distance from this tree, part of the proposed retaining wall would be within its root protection area. There is no substantive information demonstrating the potential impact of the wall on the lime tree, and in the absence of this I cannot be certain that the appeal scheme would not harm the health and lifespan of this protected tree.
10. The appellants suggest that conditions could be applied requiring further information on how trees would be protected. However, as the application has not demonstrated that there is an appropriate design solution for protecting the lime and leyland trees, conditions would not be appropriate in this case.
11. There are references to two residential schemes approved by the Council in other parts of Chatham, but these infill developments front highways so are not directly comparable to the appeal proposal.
12. Therefore, I conclude that the proposal would harm the character and appearance of the area. This would be contrary to Policies BNE1, BNE41, BNE43, H4 and H9 of the Medway Local Plan 2003 (LP). Together, these require developments to respect the location of buildings and the visual amenity of the surrounding area and retain trees which contribute to local character, amongst other things.

Other Matters

13. The Council did not find harm or development plan conflict in relation to several other matters, including the principle of residential development, heritage assets, biodiversity, contamination, parking and access arrangements, carbon reduction and water efficiency. Nevertheless, even if I were to agree with the Council on these points, the absence of harm would be a neutral matter which would not carry weight in favour of the proposed scheme.
14. The proposal would be likely to have a significant effect, either alone or in-combination, on the North Kent Marshes Special Protection Areas and Ramsar sites due to its location within 6km of them. However, notwithstanding the agreement and payment towards mitigation measures in the SAMMS¹, given my conclusion below there is no need to consider the implications of the proposal on the protected sites because the scheme is unacceptable for other reasons.

Planning Balance and Conclusion

15. The Council accepts that it cannot currently demonstrate a five year housing land supply required by the Framework and that past housing delivery has been less than the 75% housing requirement. As there is a shortfall in housing provision, paragraph 11(d) of the Framework is engaged.
16. Paragraph 11(d)(ii) of the Framework confirms that in such circumstances, permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, having particular regard to key policies including directing development to sustainable locations, making effective use of land and securing well-designed places.
17. The Framework seeks to significantly boost housing supply and highlights the important contribution small and medium sized sites can make. The scheme would make a modest contribution of three homes to the supply of housing, making better use of an underutilised site within an urban area close to services and public transport. It would contribute towards Medway's housing supply, making a modest difference to addressing the shortfall, and therefore I attribute moderate weight to this benefit.
18. In contrast, the proposal would significantly harm the character and appearance of the area. This would conflict with the Framework where it recognises the importance of good design and the contribution trees make to the character of urban environments and requires developments to be sympathetic to local character. The proposal would also be contrary to Policies BNE1, BNE41, BNE43, H4 and H9 of the LP. Indeed, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.
19. For the reasons given above, the proposal would conflict with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

A Wright INSPECTOR

¹ Thames, Medway & Swale Estuaries Strategic Access Management and Monitoring Strategy July 2014