



Appeal Decision

Hearing held on 6 September 2011

Site visit made on 6 September 2011

by Christopher Bowden MA (Oxon)

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 October 2011

Appeal Ref: APP/U2235/A/11/2152442

509 Loose Road, Maidstone, Kent ME15 9UQ

- 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 S Moss (Brookheath Ltd) against Maidstone Borough Council.
 - The application Ref. MA/10/1345 is dated 26 July 2010.
 - The development proposed is demolition of public house and erection of five houses and six apartments.
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Application for costs

1. At the Hearing an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Decision

2. The appeal is dismissed.

Procedural matters

3. The Council issued a notice dated 8 July 2011 stating that, had an appeal not been lodged against its failure to determine the application within the statutory period, it would have refused planning permission for the reasons set out in the notice. I have taken these into account in determining this appeal.
4. The notice cites policies in the South East Plan 2009 (SEP), which is part of the development plan for the area. The Secretary of State has made clear the Government's intention to revoke Regional Strategies and the provisions of the Localism Bill now before Parliament reflect this intention. While I have taken the point into account in determining this appeal I give it limited weight at this stage of the Parliamentary process. The notice also mentions the Loose Road Character Area Assessment Supplementary Planning Document (SPD). As this was adopted by the Council (in 2008) following public consultation, I give the document significant weight.
5. Reference was made at the Hearing to the draft National Planning Policy Framework document (specifically, to the presumption in favour of sustainable development mentioned in it). This was issued for consultation on 25 July 2011. I have had regard to the document but, as it is still in draft form and subject to change, I give its policies little weight.

6. The appellant submitted before the Hearing a unilateral undertaking, signed and dated 22 August 2011. This relates to financial contributions in respect of public open space, libraries and health care and is considered further below.

Main issues

7. These are the effect of the proposed development on:
- the character and appearance of the area; and
 - parking and highway safety in the vicinity of the site.

Reasons

Character and appearance

8. The appeal site comprises a disused public house (the Papermakers Arms) and its former car park area and derelict double garage. It has access from Loose Road (A229) and is roughly L-shaped, the rear part running between the back gardens of properties in Loose Road and Berwyn Grove. The surrounding area is predominantly residential, comprising a variety of dwelling types, largely two-storey.
9. The appeal scheme entails erection of a new building with six flats at the front of the site (in place of the existing public house) and five houses at the rear (a pair of semi-detached houses and a terrace of three).
10. The proposal would make more efficient use for residential purposes of previously developed land in a reasonably sustainable location. It would contribute to the provision of a range of additional housing in the Borough, consistent with Maidstone's role as a regional hub. It would result in the loss of a public house, albeit vacant for some years, but it appears that there are suitable alternative facilities within walking distance so the loss would not have an unacceptable impact on the local community.
11. The new building would be a prominent structure but so is the existing one. It would broadly echo the style and scale of the public house, with sympathetic external materials and detailing. The Council has no objection to the proposed building and neither do I. Indeed, given the dilapidated state of the current building, the new one would improve the visual amenity of the site.
12. The provision of new housing to the rear would inevitably change the character and appearance of a part of the site that has historically been largely open. I see no objection to this in principle, provided that what is proposed is acceptable. The north-south orientation of the appeal houses differs from the east-west orientation of the houses fronting Loose Road and Berwyn Grove, for example. However, the scope to reflect the existing pattern of development in this respect is limited by the size and shape of the site and by the need to avoid unacceptable overlooking of neighbouring properties in what is effectively a backland position. I do not consider that the different orientation of the dwellings in this case would itself be materially harmful to the character and appearance of the area.
13. Four of the five houses would be three-storey. Although vegetation in neighbouring gardens would limit their visibility from certain perspectives, the houses would be seen clearly from others. Given their height, they would be unduly conspicuous and visually intrusive, compounded by the rise in land level from Loose Road to the rear of the site. The semi-detached ones would be especially prominent seen from the road down the access way and would

- appear at odds with the two-storey form of the adjacent terraces, notwithstanding the presence of some three-storey houses in the terrace further along Loose Road. Some lowering of the overall height of the appeal dwellings could be achieved through a condition on slab levels but I am not persuaded that this would mitigate the visual impact sufficiently.
14. Moreover, both the semi-detached houses and the terrace would be built on the eastern site boundary and the terrace would extend to the western boundary too, albeit two-storey at this point. With relatively small back gardens and the rest of the site largely given over to hardstanding the houses would appear cramped and with insufficient scope for greening and softening the development, despite the landscaping proposals submitted. These would improve the current appearance of the site but this is disused car park not a development of five houses. Overall, it would be at odds with the more spacious and verdant character of existing properties in the vicinity.
 15. I recognise that gaps and landscaping would be borrowed from neighbouring gardens to some extent and that the Loose Road terraces are also tight to the boundaries (although they are mostly two-storey and have fairly long back gardens). I also accept that not everyone wants a large garden and that the Council appears to have no adopted standards for amenity space. Nevertheless, having regard to the location of the appeal site to the rear of existing properties, I consider that the combined effect of the height and bulk of the houses proposed, the lack of space around them and the proportion of the site covered by built form or hardstanding is a development that would not integrate successfully with the surrounding area or otherwise complement neighbouring buildings, even though it is proposed to use external materials in keeping.
 16. For the reasons given above, therefore, the houses would not fit well within the local context and would not reflect the expectation in the Character Area Assessment SPD that new development should respond to such matters as the scale and height of historic buildings, like the adjacent cottages on Loose Road, in order to retain and enhance local distinctiveness.
 17. I conclude that the proposed development would have a materially harmful effect on the character and appearance of the area. As such, it would conflict with the objectives of SP Policies CC1, CC6 and BE2 and of the SPD mentioned above.

Highway safety

18. The appeal scheme would provide five parking spaces on the site: one for each of the houses and none for the six flats or for visitors. Although, at the time of my visit, there were spaces available in Loose Road and in other roads nearby, I have no reason to doubt the written and photographic evidence submitted by local residents that there are significant parking pressures in the evenings and at weekends. In particular, the houses along the part of the road in which the site is located do not have off-street parking and thus any parking is on-street. The availability of space in Loose Road itself is limited by parking restrictions and this already adds to parking pressures in other roads. Overall, therefore, I do not doubt that this is an area of parking stress and that parking in Loose Road itself is currently at capacity.

19. It is also a clear objective of Government policy¹ to promote sustainable transport choices and reduce reliance on the car for work and other journeys (eg through parking policies in development plans).
20. Although pre-dating the current version of PPG13, the text supporting Policy T13 of the Maidstone Borough-Wide Local Plan (adopted in 2000: LP) indicates that the availability of car parking has a major influence on transport choices and that developers should not be required to provide more spaces than they themselves wish, unless there are significant road safety or traffic management implications. In this context, PPG13 itself refers to "exceptional circumstances" which cannot be resolved through the introduction or enforcement of on-street parking controls, for example. Although Policy T13 mentions the adoption of parking standards for all new development, there are currently no such locally adopted standards. At the Hearing, the representative of the Council said that parking provision was considered on a case by case basis in the light of PPG13.
21. Guidance provided by Kent County Council, as Highway Authority, when consulted by the (Borough) Council on this scheme was for a maximum of one space per unit for both houses and flats, noting that reduced or nil provision would be acceptable, "subject to effective tenancy controls". This was subsequently revised to a minimum of five spaces for the houses plus an additional visitors' space. Confirmation was also sought, in relation to the flats, about tenancy controls on car ownership.
22. The suggestion made in a number of local representations that the 11 dwellings proposed would require at least 22 spaces would be contrary to policy on parking restraint and encouraging sustainable transport choices. This level of provision (equating to 2 spaces per dwelling) would also be about double that recommended by the County Council. That said, it is clear that, while the spaces proposed for the individual houses accord with the County Council's guidance, tenancy controls would relate only to the bringing of cars on to the site. They would not themselves provide a means for controlling ownership of cars by occupiers of the development.
23. As noted above, the site is located in a reasonably sustainable location. There are local shops and facilities within walking distance and the scheme proposes storage for six bicycles. There are bus stops close by and a fairly frequent service to and from Maidstone town centre, at least during the day. However, the service appears to be much less frequent in the evenings and on Sundays, for example.
24. Thus, while there appear to be clear alternatives to the car for at least some of the travel needs of potential residents of the development, I do not consider the location of the site to be so sustainable as to justify no parking spaces at all for six two-bedroom flats. It is not a town centre site and a "no car" approach without any means in place or proposed to enforce it would be likely to result in additional parking off-site, exacerbating the situation mentioned above. Parking restrictions in Loose Road cannot be relied upon to discourage residents of the development from owning cars; it is evident from local representations that current Loose Road residents own cars and park them in other roads nearby.
25. The effect of additional overspill parking would be likely to be not only added congestion and inconvenience for local residents but also potentially hazardous

¹ Planning Policy Guidance Note 13 *Transport* (PPG13)

to road users and pedestrians eg through pavement parking, restricting visibility, obstructing the highway or mounting pavements or verges to secure passage on the relatively narrow roads in the vicinity of the site. The fact that parking is currently permitted there and is under pressure from existing vehicles is no reason to make matters worse. Similarly, lack of available information about accidents to date is not a reason to add to potential highway safety problems. I recognise that powers are available to restrict on-street parking further, for example, but the issue in the vicinity of the site appears to be essentially a matter of capacity, compounded by the width of the roads.

26. To sum up, while there is a clear policy imperative to promote parking restraint and limit car use, the circumstances in the general area of the appeal site (including lack of frequent public transport alternatives in the evenings), mean that the absence of any parking provision at all for the residents of the six flats or visitors to the development, would be likely to be prejudicial to highway safety, for the reasons given above. I consider the circumstances of the site to be sufficiently exceptional to justify provision of more parking spaces than the appellant has proposed in this instance.
27. There is also concern that the level of parking provision on site would lead to parking in the access way, obstructing the passage of other vehicles which would have to reverse on to the busy main road. I do not consider that a reasonable person would knowingly block the access and notices within the site could also indicate that no parking should take place there. Amendments made to the scheme are designed to ensure that vehicles are not parked in the turning area, which appears to be sufficient for cars and PLG vehicles to turn within the site and leave in forward gear. Any larger vehicles entering the site would have to reverse in or out but I have no reason to suppose that this would be a frequent occurrence and refuse collection could be made from Loose Road in any event, given the position of the communal collection point.
28. Nevertheless, for the reasons given above, I conclude that the proposed development would have a materially harmful effect on parking and highway safety in the vicinity of the site. As such, it would conflict with the objectives of SP Policy T4 and LP Policy T13.

Other matter

29. As noted above, the appellant submitted a unilateral undertaking relating to financial contributions in respect of public open space, libraries and health care. The Council is content with the document, as is the County Council as regards libraries. In the light of the information provided about the demands likely to be generated by the development, the location of existing facilities, the improvements that would be funded by the contributions, and the basis of their calculation, it appears that the contributions would meet the relevant policy and statutory tests. However, the undertaking would not overcome the objections to the proposal relating to character and appearance and highway safety. I therefore give it limited weight in this appeal.

Conclusions

30. The scheme would make more efficient use of previously developed land to provide additional housing and transform a largely derelict site, on the basis discussed earlier. While recognising the importance of these matters, I consider nevertheless that the benefits would be outweighed in this case by the harm I have identified.

31. For the reasons given above and having regard to all other matters raised, including concerns raised by local residents, I conclude that the appeal should be dismissed.

Christopher Bowden

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Sasha White	Barrister (Landmark Chambers)
Simon Howard-Dobson	PHD Associates

FOR THE LOCAL PLANNING AUTHORITY:

Stephen Clarke	Principal Planning Officer (Medway Borough Council)
Louise Rowlands	Development Planner: Highways and Transportation (Kent County Council)

INTERESTED PERSONS:

Councillor Ian Chittenden	Borough Councillor (South Ward)
Joan Simkins	Local resident (Chair of North Loose Residents Association: NLRA)
Jacqueline Day	Local resident (Secretary of NLRA)
Michael Abbott	Local resident (Member of NLRA)

DOCUMENTS

- 1 Notification of Hearing and list of those notified
- 2 Extract from Open Space Development Plan Document and open space map
- 3 Draft conditions on contaminated land and noise