



Appeal Decision

Site visit made on 28 January 2020

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

an Inspector appointed by the Secretary of State

Decision date: 19 February 2020

Appeal Ref: APP/A2280/W/19/3238080

Land next to 425 High Street, Luton Arches, Chatham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Wexham Homes Ltd against the decision of The Medway Council.
 - The application Ref MC/19/2011, dated 23 January 2019, was refused by notice dated 8 August 2019.
 - The development proposed is for 19 number flats including a caretaker studio.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Outline planning permission is sought but with landscape matters reserved. I have determined the appeal on this basis.

Main Issues

3. The main issues are whether the proposal provides a suitable 'housing mix' in this location, and the effect of the proposal on:
 - the character and appearance of the area including the removal of trees
 - the living conditions of future occupiers in respect of internal floor space, amenity space, air quality and waste collection
 - the living conditions of both future and neighbouring occupiers in respect of outlook, privacy, daylight and sunlight, and parking for neighbouring properties, and;
 - highway safety with particular reference to waste collection.

Reasons

4. The appeal site is located adjacent to 'Luton Arches' junction on the last section of High Street, Chatham before it becomes Chatham Hill. When facing the appeal site, the High Street can be seen to the left which is a mix of residential and retail premises. The right side of the site abuts the 'Luton Arches' railway viaduct which has three open and two bricked up arches. The open arches are accessed via a roundabout which serves Chatham Hill, Luton Road and Magpie Hall Road as they slope up the hill. In the other direction the roundabout provides access to the A2 dual carriageway at New Road that runs towards Chatham town centre. There are regular bus services which run past the site, and there is a pedestrian footbridge which crosses the A2 to connect Magpie Hall Road with High Street.

5. The appeal site is a relatively narrow strip of land that is set behind sloped paving, traffic barrier railings and double-yellow lines. There are large advertising hoardings to the front of the site behind which there is rough vegetation and trees, some of which appear to have been recently felled. The plot slopes steeply up to meet with the rear boundary and elevation of the flats on Hillside Road.

Suitable housing mix

6. The main parties agree that the proposal would maximise the use of the site and that the principle of development in this location is acceptable. The proposal is for a multi-storey development with a mix of 19 studio and one-bedroom flats. The development would include a caretakers' flat that would be located between two internal access passages leading to a rear service area, waste bins and cycle storage.
7. The proposed development would be 'well connected' either by foot, cycle or bus to the town-centre where there are a range of day to day services, leisure facilities and wider transport links including trains to London. As such this type of accommodation is likely to be attractive to a range of occupiers.
8. The Council suggests that the proposal for studio and one-bedroom flats fails to recognise the need for other types of housing in the area. However, I have minimal evidence before me that sets out what that type of housing might be. Furthermore, I have little evidence that 19 residential units of this size and type in this location would result in a higher demand for health and social care services, be likely to attract anti-social behaviour or result in social isolation for the occupiers in comparison to other types of housing. Thus, I conclude that the proposal in this dense town centre location makes effective and efficient use of the site.
9. Therefore, the proposal accords with Policies BNE1 and BNE2 of the Medway Local Plan 2003 (MLP) which say, amongst other things, that development should be satisfactory in terms of use. For similar reasons, the proposal accords with Paragraphs 117 and 122 of the National Planning Policy Framework (the Framework) which indicates that planning policies and decisions should promote the effective and efficient use of land.

Character and appearance

10. While the proposal is not dissimilar to the general appearance of nearby purpose-built residential flats, the street-scene is typified by front-boundary planters or small planted setbacks, and a range of 'active' retail frontages. Moreover, the nearby residential buildings are further typified by under-croft or open side accesses which helps to break down the 'hard' street-scene and avoid a cramped appearance in this dense 'built up' area.
11. The residential proposal would have no such boundary treatments or access arrangements. Indeed, the submitted drawings show that the development would extend across most of the site, have a dominant brick-style elevation facing onto the pavement and lack an 'active' frontage that is seen further along the street. Therefore, the proposal would, by virtue of its size, mass and street-level appearance, be cramped on the relatively narrow site and at odds with the prevailing character and appearance of the area.

12. Furthermore, whether the remaining trees on the appeal site are classified as low arboricultural value or not, the proposal would necessitate their permanent removal. I acknowledge that the trees on site are not necessarily subject to a tree protection order (TPO) or located in a conservation area. However, this does not negate the general duty in respect of trees under Section 197 of the Town and Country Planning Act 1990, which includes appropriate provision for the preservation and planting of trees.
13. The size and location of the remaining trees on site make an important contribution to the character and appearance of the area. Indeed, the juxtaposition of their verdant qualities during some months of the year, in contrast to the harsh appearance of the railway arches would contribute to the overall visual amenity of the area. As such, the trees would provide a visual benefit to the immediate urban location, which could not be mitigated by the imposition of a landscaping condition as the proposal requires the full extent of the site. I conclude therefore, that the removal of the trees on site in combination with the dominant and cramped appearance of the proposal, would be incongruous with the character and appearance of the area.
14. Therefore, the proposal is contrary to Policies BNE1, BNE6, BNE8, BNE43 and H4 of the MLP which explain, amongst other things, that development must be appropriate in relation to character and appearance and seek to retain trees that provide a valuable contribution to local character; and Paragraphs 118, 124, 127, 130, 150 and 170 of the Framework which require that development is sympathetic to local character and history, including the surrounding built environment and landscape setting.

Living conditions of future occupiers

a) Internal floor space

15. The proposal is for studio and one-bedroom flats. I note that the submitted drawings show the provision of double beds within the proposed studio flats. However, as the plans also show that the units meet the nationally prescribed space standards for this type of accommodation, I am satisfied that the flats, while on the smaller end of the standard, meet the floorspace required for a unit of this type.

b) Amenity space

16. However, none of the units would have any form of private external amenity space for the purposes of 'sitting out' or drying laundry. This is less than ideal when considered in combination with the overall floor-space available within the flats. Nonetheless, in this town-centre location where there is likely to be laundrette services and places to socialise and relax away from the busy high street, including Great Lines Heritage Park, I find this element of the proposal is acceptable.

c) Air quality

17. The development would be adjacent a number of roads and the major traffic junction at Luton Arches. Indeed, the appeal site is located within a polluted area as identified in the Central Medway Air Quality Management Area (AQMA). I note the Council's concerns in respect of the Air Quality Assessment carried out by Dustscan AQ (February 2018).

18. However, the professional Dustscan assessment concludes in paragraph 5.3 that the proposal would be suitable for residential development. Moreover, as little evidence to the contrary has been provided by the Council, I find no reason why this assessment should not be accepted. I can only conclude that the proposal is suitable for residential development in respect of air quality.

d) Waste collection

19. The appellant has proposed a caretakers' flat within the development. The purpose of the caretaker, amongst other things, would be to facilitate the collection of waste. As there is no vehicular access to the rear waste-storage area of the proposed development the caretaker would need to wheel the waste-bins to the scheme frontage or very nearby.
20. However, as noted at my site visit, even if the current railings and parking restrictions were to be removed, the location and sloped kerbside frontage is not readily compatible with the collection of the typical number and size of communal waste bins needed for a development of this size. Indeed, any collection vehicles or bins associated with the proposal, when set down on the kerbside, would conflict with the considerable through-flow of traffic and buses passing through Luton Arches junction. As such, the proposal, despite the presence of a caretaker, would be unsuitable for the safe collection of waste. Moreover, as no alternative nearby location or method for waste collection has been suggested this would affect the residential amenity of future occupiers.
21. Although I have found in favour of the appellant in respect of internal floor space, amenity space and air quality, I have concluded that there would be harm to the living conditions of future occupiers in respect of waste collection. Therefore, the proposal is contrary to Policies BNE2, BNE24 and T1 of the MLP which requires, amongst other things, that all development should secure the amenities of its future occupants.
22. For similar reasons the proposal conflicts with Paragraph 127 and 181 of the Framework which aims include that development 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.

Living conditions of future and neighbouring occupiers

a) Outlook

23. The proposed development would be in close proximity to neighbouring flats, houses and shops. While distances between buildings in this town-centre location are relatively narrow, the proposal would result in the removal of the existing trees on site which would be replaced by a development of substantial bulk and mass.
24. As such, the immediate outlook from the existing developments, including Hillside Road and Institute Road, would be onto the elevation, windows and openings of the new development. As such, the relative proximity of the new development would create a sense of enclosure for both the neighbouring occupiers and the future occupiers of the new development.

b) Privacy

25. Moreover, the future occupants to the rear of the proposed development would, by virtue of its lower position, be overlooked by the existing flats on Hillside Road. Therefore, the physical relationship between the buildings would result in an adverse impact on the outlook of neighbouring occupiers and affect the privacy of the future occupiers of the rear of the proposed development.
26. The future occupants to the front of the proposal would face directly onto the pavement and Luton Arches junction. While coverings could be deployed to the windows and openings of this elevation, to mitigate the curiosity of passers-by or drivers in this kerbside location, they may not be appropriate or desirable during all periods of the day and night.
27. As such, with or without window coverings, and in the absence of any proposed boundary treatments, the likely footfall and busy junction location of the proposal would harm the privacy of the future occupiers to the front of the proposal.

c) Daylight and sunlight

28. I acknowledge the daylight and sunlight assessment provided by the appellant and the compliance with standards associated with the daylight and sunlight that would be experienced by the neighbouring occupiers. However, whether the windows would be to habitable rooms or not, the close proximity of the buildings, lower positioning of the new development, combined with the rise and fall of sunlight and daylight experienced throughout the course of the day and year will nonetheless, diminish the light available to future occupiers of the new dwellings to the rear of the proposal.
29. Therefore, the relative height and positioning of the proposal to the rear of the site, proximity to the existing flats, location and the absence of boundary treatments to the front of the proposal, would adversely affect the living conditions of future and neighbouring occupiers in respect of outlook, privacy and daylight and sunlight.

d) Parking for neighbouring occupiers

30. Whilst the appellant proposes a 'car-free' scheme there is little evidence before me that sets out a mechanism to secure this proposal. What is certain is that no parking would be provided on site for motor vehicles. I saw during my site visit that there are limited opportunities for on-street parking, and where they do exist, they are controlled by time limits or permit schemes. I am uncertain how these schemes are operated. However, this would indicate that there is a high level of demand for on-street parking.
31. The proposal is for new residential units, and even given the context of the site in terms of proximity to transport routes, such as buses and trains, it is still highly likely that there would be some demand for on-street parking, including parking needed by trade-persons and delivery drivers, as there is no parking provided on the site or an obvious lay-by nearby.

32. I note the Council's parking standards. However, even if a lower threshold were required to reflect this central urban location, the fact remains that the scheme would not provide parking spaces on or near to the appeal site. As such, there is a strong likelihood that the proposal would increase 'parking stress' in the nearby roads and streets. Indeed, the absence of parking provision on the site would be likely to diminish the parking opportunities available to neighbouring occupiers in the surrounding area.
33. Therefore, I conclude that the proposal would harm the living conditions of future and neighbouring occupiers in respect of outlook, privacy, daylight and sunlight, and parking. Consequently, the proposal is contrary to Policies BNE2 and BNE24 the MLP which say, amongst other things, that all development should secure the amenities of its future occupants, and protect those amenities enjoyed by nearby and adjacent properties.
34. For similar reasons the proposal conflicts with Paragraph 127 and 181 of the Framework which aims include that development 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

35. As set out above the appellant proposes a 'car-free' scheme that would likely result in reduced on-street parking opportunities for neighbouring occupiers. Moreover, neither the existing location, nor the proposed development would have obvious access to a parking lay-by. This means that waste collection vehicles, residents and visitors would be likely to use kerbs or pavements as a temporary parking measure. As the proposal would be set on the busy Luton Arches junction this would have a direct and immediate effect on highway safety in the area. As such the absence of on-site or lay-by parking for refuse collection, residents or their visitors will place an unacceptable strain on the local highway network.
36. Therefore, I conclude that the proposed 'car-free' scheme, combined with the need to set down wheeled bins at the front of the property and the potential for inconsiderate parking to the front of the site, would represent an unacceptable risk to pedestrians and vehicles and harm highway safety.
37. Therefore, the proposal is contrary to Policies T1, T3 and T13 of the MLP which says, amongst other things, that development will not significantly add to the risk of road traffic accidents.
38. For similar reasons the proposal conflicts with Paragraph 109 of the Framework which requires that development should not have an unacceptable impact on highway safety.

Other matters

39. The appeal site is located within 6km of the North Kent Marshes Special Protection Area/Ramsar site and its over-wintering bird population. However, it has not been necessary for me to undertake an appropriate assessment of the proposal under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 given my overall conclusion on the main issues.

40. I acknowledge that the site is currently unkempt and as such might attract anti-social behaviour. However, that is not a justification for setting aside the harm I have identified to the character and appearance of the area, the living conditions of future and neighbouring occupants and highway safety.

Conclusion

41. For the reasons given above I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR

Richborough Estates