
Appeal Decision

Site visit made on 14 September 2016

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/U2235/W/16/3148986

The Covers, Lower Road, East Farleigh, Kent, ME15 0JW

- 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 R Cater against Maidstone Borough Council.
 - The application Ref MA/15/09305, is dated 10 November 2015.
 - The development proposed is erection of new detached dwelling with alterations to existing highway access, garaging, car parking plus other ancillary works.
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Decision

1. The appeal is dismissed and planning permission for erection of new detached dwelling with alterations to existing highway access, garaging, car parking plus other ancillary works is refused.

Procedural Matters

2. The appellant has submitted an amended block plan. This shows the removal of the cherry tree on site. This corresponds with the tree survey plan. In addition the appellant's grounds of appeal identify at paragraph 5.9 that the existing tree in the centre of the site would be removed. The appeal is considered on this basis.
3. I have been provided with policies from the Maidstone Borough Local Plan Submission Version 2016 (SLP). This has not yet been examined and found sound. As such I attach only limited weight to these policies.

Background and Main Issues

4. As set out above, this appeal is against the failure of the Council to determine the planning application and there is not, therefore, a formal decision of the Council. However, the Council's evidence makes it clear that, had it been in a position to determine the planning application, it would have refused planning permission for the development.
 5. The Council's statement identifies that the site is located within the countryside where policies of restraint apply. Maidstone Local Plan (LP) Policy ENV28 and SLP policy SP17 seek to restrict development in the countryside to a number of exceptions. None of these would apply to the appeal scheme. It would also be located within the East Farleigh Lower Road Conservation Area (CA).
 6. In light of the above and having considered the submissions before me the main issue in the case is:
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- Whether the provision of a new dwelling would preserve or enhance the character or appearance of the East Farleigh Lower Road Conservation Area (CA), with particular regard to trees.

Reasons

7. The site would be formed from the garden area of the existing dwelling which is described as a 'substantial semi-detached period cottage'. It contains small ancillary garden buildings and a number of trees. Whilst there is no CA appraisal the CA is characterised principally by large detached and semi-detached dwellings. It also contains buildings and spaces. Together these contribute to the 'semi-rural' character of the area. Accordingly, in terms of the National Planning Policy Framework (the Framework), the designated heritage asset concerned is the CA. The appeal site is part of that designated heritage asset.
8. The site contains a number of trees. These are protected by the sites location within the CA. The submitted survey identifies which trees would be removed and retained as part of the scheme. It also provides an indication of how construction would be undertaken and tree protection provided. As such I appreciate that it would be possible to construct the dwelling without harming the trees shown to be retained. Nevertheless, at least one tree would be removed.
9. The appeal site contributes to the spaces within the CA. The trees on the site contribute to the character and appearance of the site and the wider area. Travelling along Lower Road the enclosure and trees and landscaping dominate. The roof spaces of the dwellings along the south side of the road are glimpsed between substantial spaces in this part of the CA. The trees within the site are visible within the street scene. In this regard they have amenity value within the street scene.
10. The proposal would place a dwelling on the site. It would be positioned centrally within the site with a detached garage. It would have a staggered footprint. As a result overall it would be wide and deep. The roof would also be substantial. It would have no visual affinity with the buildings along Lower Road and would be harmful to the established pattern of development and overall character of the area.
11. I acknowledge that the proposal would utilise appropriate materials, have adequate parking and not lead to adverse impacts on neighbouring properties. Nevertheless, the introduction of a dwelling onto the site would involve a sizeable new building that would seriously compromise the prevailing open character and distinctive spaciousness of this part of the CA. Furthermore, I understand that the new dwelling would be set back within the site and that there are substantial boundary treatments and hedges. However, a two storey dwelling would not be entirely obscured. In addition the proposal would remove some of the existing trees and space that contribute to the character of the CA.
12. The proposal would lead to less than substantial harm to the significance of the CA. I note that the proposal would provide a dwelling in a location that is considered to be sustainable. Furthermore, I appreciate that the scheme would be low density. However, with paragraph 134 of the Framework in mind, I am not persuaded that these considerations equate to the public benefits

necessary to outweigh the harm that I have identified, or that the proposal is necessary to secure optimum viable use of the site. Therefore the proposal would not preserve or enhance the character or appearance of the CA. It would also be in conflict with emerging policy DM3 which amongst other things seeks to avoid inappropriate development that would have an adverse impact on heritage assets.

Other Matters

13. The appellant has referred me to a nearby appeal decision at 'Pats Cottage, Farleigh Lane'¹. This appeal was allowed and the appellant points out that it establishes that East Farleigh is a sustainable location for new dwellings. This is not a matter in dispute in this appeal.
14. The appellant submits that the Council does not have a five year supply of housing, the Council disputes this. Nevertheless, even if I were to conclude there is a shortfall in five year supply, as suggested by the appellant, and that relevant policies for the supply of housing should not be considered up-to-date, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Conclusion

15. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

¹ APP/U2235/A/14/2221054