
Appeal Decision

Site visit made on 13 January 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 23 January 2017

Appeal Ref: APP/U2235/W/16/3158641

Olivia's Barn, Heath Road, Coxheath ME17 4EF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr & Mrs J Lee against the decision of Maidstone Borough Council.
 - The application Ref 16/503828/FULL, dated 3 May 2016, was refused by notice dated 13 July 2016.
 - The development proposed is the relocation of the existing garage unit and construction of a 5 bedroom dwelling alongside associated parking, access and landscaping works.
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Decision

1. The appeal is allowed and permission is granted for the relocation of the existing garage unit and construction of a 5 bedroom dwelling alongside associated parking, access and landscaping works at Olivia's Barn, Heath Road, Coxheath ME17 4EF, in accordance with the terms of the application, Ref 16/503828/FULL, dated 3 May 2016, subject to the attached schedule of conditions.

Application for costs

2. An application for costs was made by Mr & Mrs J Lee against Maidstone Borough Council. This application is the subject of a separate Decision.

Main Issue

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

Reasons

Character and appearance

4. The proposal is for a five bedroom detached house within the garden of Olivia's Barn, a reconstructed residential property on the northern side of Heath Road. Olivia's Barn and its garden are situated immediately to the south of Little Wadhurst Farmhouse, a large, modern detached property set in its own grounds. The two existing properties share the same access and together sit within a square enclosure surrounded by a tall hedge. To the north and east lies open countryside, to the west a large housing estate currently under construction and to the south, on the opposite side of the road, a small group of houses but otherwise open countryside. The area comprises the eastern outskirts of the village of Coxheath.

5. The site lies well to the east of the settlement boundary of Coxheath as defined in the Maidstone Borough Wide Local Plan 2000 (MBWLP) and consequently in the countryside for policy purposes. As such Policy ENV28 applies, which seeks to resist development except in certain limited circumstances, none of which apply in this case. Policy ENV32 also applies, which defines the 'Southern Anti-Coalescence Belt' within which extensions to built-up areas and the consolidation of areas of development by infilling will be resisted.
6. The emerging Maidstone Borough Local Plan (MBLP) takes account of the new housing estate and redefines the settlement boundary of Coxheath further east to include it. However, the new boundary abuts but excludes Olivia's Barn and Little Wadhurst Farmhouse. Therefore, as far as the Council is concerned, the appeal site remains defined as countryside and emerging Policy SP17 applies which continues to restrict development.
7. Nevertheless, the new housing estate now under construction immediately to the west of Olivia's Barn and Little Wadhurst Farmhouse significantly changes the character of the area. The estate now physically links those two properties to the village of Coxheath with continuous development. When approaching along Heath Road from the east, the two properties, albeit enclosed by a tall hedge, are seen in the context of the new housing estate behind and the group of houses opposite. Seen from the footpath through the orchard just to the east, the line of rooftops above the hedge confirms the impression of a continuous built up area which includes the appeal site.
8. The proposed house would be about the same size and have a similar design as Little Wadhurst Farmhouse in the adjacent plot. Situated about 2.5 m from the highway boundary and with a ridge height of about 8 m, the upper part of the building would be clearly seen above the boundary hedge. However, the house would be sited end on to the road with a catslide roof sloping away, reducing its visual impact. In any event, by sharing the access and the well screened enclosure of the existing two properties the proposal would appear discreet and unobtrusive when seen in the context of its surroundings. The domestic paraphernalia surrounding the new house, such as parked cars and garden furniture, would be screened from view by the tall hedge.
9. The proposal would not amount to sporadic development as it would be very well related to the existing two properties. It would not involve the loss of open countryside nor introduce built form into open, undeveloped land. It would not therefore erode the openness of the area or contribute to the coalescence of built-up areas. As a site with unique characteristics, no precedent would be set for further development in the vicinity.
10. For these reasons the proposal would not materially impact on the character and appearance of the area and being wholly contained within the hedged enclosure would not materially contribute to the coalescence of settlements in the Southern Anti-Coalescence Belt. Whilst Policies ENV28 and ENV32 of the MBWLP and Policy SP17 of the MBLP apply, albeit the latter having only limited weight as an emerging policy, the proposal would cause no material harm when assessed against the objectives of these policies. The construction of the new housing estate up to the appeal site since the adoption of the MBWLP represents an important material consideration that outweighs the application of these policies and justifies permission in this case.

Other matters

11. In view of the close proximity of the appeal site to the village of Coxheath with its services and facilities there is no dispute that the site represents a sustainable location for an additional dwelling.
12. Both parties have made extensive submissions regarding the housing land supply position in the Borough. However, the proposal would only provide one house which would not be a significant addition to the supply of housing in any event. Given the conclusion in relation to the main issue, whether or not there is a five year supply of deliverable housing sites does not need to be established in this case as it would not be a determinative factor.
13. The mobile home on the site would need to be moved as part of the scheme and any new access would require planning permission. Consequently, the two concerns of the Parish Council would be met.

Conditions

14. The Council has suggested a number of conditions should the appeal be allowed and I have assessed these against the relevant tests, making minor amendments as necessary. In addition to the standard implementation time limit it is necessary to define the plans which have been approved in the interests of certainty. Conditions to control the materials to be used and the proposed land and building levels are necessary to ensure the satisfactory appearance of the development. It is necessary to ensure parking/turning areas are provided in the interests of highway safety and details of proposed hard and soft landscaping and its maintenance in the interests of visual amenity. An archaeological watching brief is required in view of potential archaeological remains on the site. Finally, it is necessary to restrict permitted development rights to control any extensions to the house due to its rural fringe location but there is no justification to remove rights to erect curtilage buildings given the well screened site.

Conclusion

15. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings:
 - DHA/11321/03 (Proposed site plan)
 - DHA/11321/04 (Proposed dwelling floor plans)
 - DHA/11321/05 (Proposed dwelling elevations)
 - 11/010/01 (Timber framed car port - floor plan and elevations)

- 3) No development above slab level shall take place until full details (and samples if necessary) of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall then be carried out in accordance with the approved details.
- 4) No development shall take place until details of existing and proposed land levels and proposed building floor levels shall be submitted to and approved in writing by the local planning authority and the development shall then be constructed in accordance with the approved details.
- 5) The parking/turning areas shown on the approved plans shall be laid out and brought into use before the first occupation of the dwelling hereby permitted and shall thereafter be kept available for such use at all times. No development, whether or not permitted by The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification), shall be carried out on the parking/turning areas or in such a position as to preclude vehicular access to them.
- 6) No development falling within Schedule 2, Part 1, Classes A or B of The Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) shall take place on the site without the prior written consent of the local planning authority.
- 7) No development above slab level shall take place until a scheme of hard and soft landscaping, which shall include details of all existing trees and hedgerows on the land, details of any to be retained together with measures for their protection in the course of development and a programme for the scheme's implementation and long term management shall be submitted to and approved in writing by the local planning authority. The scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment and Landscape Guidelines and shall include full details of the proposed means of surfacing and boundary treatments.
- 8) All planting, seeding or turfing comprised in the approved landscaping scheme shall be carried out in the first planting and seeding seasons following the first occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation.
- 9) No development shall take place until arrangements have been made for a watching brief to be undertaken by an archaeologist approved by the local planning authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved in writing by the local planning authority.