

Appeal Decision

Site visit made on 9 January, 2017

by C. Jack, BSc (Hons) MA MA(TP) MRTPI

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

Decision date: 25th January, 2017

Appeal Ref: APP/U2235/W/16/3153968

Land North of Blind Lane, Bredhurst, Kent, ME7 3JR

- 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 F D Attwood & Partners against the decision of Maidstone Borough Council.
 - The application Ref 16/501012/FULL, dated 3 February, 2016, was refused by notice dated 27 May, 2016.
 - The development proposed is the erection of 3 x pairs of semi-detached dwellings with associated landscaping, access and parking.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 3 x pairs of semi-detached dwellings with associated landscaping, access and parking at Land North of Blind Lane, Bredhurst, Kent, ME7 3JR in accordance with the terms of the application, Ref 16/501012/FULL, dated 3 February, 2016 subject to the Schedule of Conditions to this Decision.

Preliminary Matters

2. Similar to adjustments to the site address given on the Council's decision notice and the appeal form, I have inserted the words 'Land North of' to the site address above, as this is somewhat clearer than the general site location of 'Blind Lane' stated on the application form.
 3. The Council has received the Inspector's Interim Findings, dated 22 December, 2016, in relation to the examination of the emerging Maidstone Borough Local Plan. Emerging Policy SP 17, which relates to the countryside and is referred to in the Council's reason for refusal, is not specifically covered by the Interim Findings. I therefore do not know the extent or significance of any unresolved objections to that policy and so I have afforded it limited weight in my consideration of this appeal, having regard to Paragraph 216 of the National Planning Policy Framework (the Framework).
 4. The appellant disputes that the Council is able to demonstrate a five year supply of deliverable housing sites, as required by the Framework. However, I have concluded that the appeal should be allowed for the reasons given below, and that conclusion would be the same whether or not there is a five year supply. Consequently there is no need for me to consider this matter further.
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Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area, including the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

6. Blind Lane is a single-track no-through road situated off Forge Lane, one of the approaches to the village of Bredhurst. The lane serves several properties including a number of houses, a cattery and a car repairs workshop. The appeal site comprises a roughly rectangular paddock currently in equestrian use, with a modest stable building in one corner. The M2 motorway runs immediately adjacent to the site, separated by a bank of trees and an acoustic fence. The site lies outside the village settlement boundary, between several residential properties on the opposite side of Blind Lane and the motorway. The site is identified as falling within the Kent Downs AONB and Special Landscape Area (SLA), and a Strategic Gap.
7. It is proposed to construct three pairs of semi-detached houses, each with front and rear gardens and parking and garaging at the rear. The six properties would be served by four driveways, with two of these drives therefore being shared by two properties. There is an extant planning permission for two large detached dwellings¹ and, as a result, the Council and appellant agree that the principle of residential development is accepted. A further substantial two-storey-detached house has recently been constructed immediately adjacent to the site to the southwest.
8. The site is readily visible from Blind Lane and from its junction with Forge Lane. The six houses would therefore be open to some public views. Views into the site from other locations are significantly limited by the bank of trees adjacent to the motorway and the Forge Lane boundaries of the site, and other existing properties nearby. The site is therefore well enclosed between the motorway and the existing built surroundings.
9. There would be three separate structures, rather than the two previously approved, and the cumulative width of built form would be greater. However, both schemes would result in a residential character being established across the whole of the site. The site coverage of the appeal scheme would be only slightly greater than that previously approved and it would maintain a spacious feel, which would be in keeping with its surroundings. In my view, the effect of the appeal scheme on the landscape of the AONB/SLA, and on the purpose of the Strategic Gap, would not be materially different to that of the approved scheme.
10. The existing dwellings on Blind Lane are varied in character, ranging from a substantial modern detached house to more modest and traditionally styled semi-detached bungalows. Other factors such as the roof profiles, heights and use of materials are also markedly varied. This variety in built form continues along Forge Lane towards the village centre. Accordingly I consider that the proposed design would not be out of character with the local area and would not significantly urbanise the edge of the village. Furthermore, the development could be assimilated into the surroundings through the

¹ Ref 15/508972/FULL

implementation of a detailed landscaping scheme, which could be secured by condition.

11. The Framework sets out that great weight should be given to conserving landscape and scenic beauty within the AONB. I have found that the development would not have a significant impact on the character and appearance of the area, including its rural characteristics, particularly when the extant scheme is taken into account. I therefore consider, for the same reasons, that it would not have a significant effect on the landscape and scenic beauty of the AONB, or the SLA.
12. I conclude that the proposal would not be harmful to the character and appearance of the area. It would accord with Maidstone Borough-Wide Local Plan 2000 (MBWLP) Policy ENV31, which seeks to ensure that development does not extend significantly into the Strategic Gap. It would also accord with Policies ENV33 and ENV34 of the MBWLP, which seek to protect the landscape of the AONB and the SLA. On the other hand, the proposal would not accord with Policy ENV28 of the MBWLP, which seeks to limit development outside development boundaries.

Other Matters

13. The Council's report notes that the viability of the approved scheme has been questioned in the documents supporting the application. Nevertheless, the report proceeds on the basis that the extant planning permission has established the acceptability in principle of residential development on the appeal site. I see no reason to take a different approach.
14. I have had regard to the various representations from interested parties, including in relation to vehicle movements, visitor parking, the use and nature of the lane and its junction with Forge Lane, the provision of affordable housing, the effect of the development on local services, including schools, shops and healthcare, possible land contamination, the Code for Sustainable Homes, and the lack of existing drainage at the site.
15. I consider that the appeal scheme would include suitable off-street parking and turning facilities. The Highway Authority has raised no objection to the proposal and there is no significant evidence that it would be harmful to traffic conditions in the locality. The modest scale of the development is such that it seems unlikely to have a significant impact on local services. The Council's technical officers have not raised any concerns in relation to potential contamination. Drainage details could be controlled by a planning condition.
16. The Written Ministerial Statement of 28 November, 2014 and the Planning Practice Guidance (PPG) set out that planning obligations relating to the provision of affordable housing and tariff-style contributions towards infrastructure should not be sought in relation to small-scale developments of ten units or less. Furthermore, the Written Ministerial Statement of 25 March, 2015 sets out that the Code for Sustainable Homes has been replaced by the new national technical standards in relation to housing development, except in relation to specific, limited interim arrangements.
17. I conclude that none of the matters discussed in this section of my decision add materially to the case for or against the appeal.

Conditions

18. I have considered the list of conditions suggested by the Council, together with conditions suggested by others during the course of the application. Where necessary, I have altered the suggested conditions for clarity or accuracy. I have imposed a standardised landscaping scheme condition because the suggested condition includes specific requirements that appear to relate to the previously approved scheme and layout for two houses. The landscaping conditions, together with conditions relating to external materials and boundary treatments, are necessary in the interests of character and appearance. I have not specifically required the boundary treatment details to include an acoustic wall or fence because noise mitigation is covered by separate conditions and furthermore it is apparent from the submitted Noise Assessment that such a wall or fence may not constitute an effective form of mitigation in this case.
19. In addition to the standard time limit, I have imposed a condition specifying the approved plans, as this provides certainty. Conditions in relation to noise mitigation and air quality are necessary in the interests of the living conditions of future residents of the scheme. An ecology enhancements condition is necessary in the interests of biodiversity. A drainage condition is necessary to ensure the satisfactory operation of the completed development. A condition to secure the provision and retention of the approved parking and turning facilities is necessary in the interests of highway safety and to limit the likelihood of vehicles associated with the development being parked on Blind Lane. I have not imposed conditions relating to facilities for construction vehicles and parking, measures to prevent surface water discharge onto the highway or wheel washing facilities as I am not satisfied that these have been justified in the circumstances of this case. I have also not imposed separate conditions in respect of the degree of set-back of any gates that might be proposed or the surfacing material in proximity to the highway as such details would be covered by the imposed conditions relating to hard surfacing materials and boundary treatments.
20. Conditions 3, 5 and 12 require details to be approved before development commences. This is necessary because these conditions may affect the design of the scheme.

Conclusion

21. I conclude that the proposal would not accord with the development plan due to the conflict with MBWLP Policy ENV28. However, there has been a recent grant of planning permission which has established the principle of residential development on the appeal site. Moreover, I have not identified any harm in relation to the AONB/SLA, the Strategic Gap or any other material planning considerations. The proposal would accord with MBWLP Policies ENV31, ENV33 and ENV34. In my view, this is a case where material considerations indicate that permission ought to be granted, notwithstanding the conflict with Policy ENV28. The appeal should therefore be allowed.

Catherine Jack

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 695:PO1A; 695:PO2; 695:PO3; 695:PO4; 695:PO5; 695:PO6; 695:PO7; 695:PO9; drawing no 1; 2284/15/B/2; and 2284/15/B/3.
- 3) No development shall take place until details of the specific noise mitigation measures specified in the Noise Assessment by Peter Moore Acoustics Ltd have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved measures prior to the first occupation of the dwellings and such measures shall be retained and maintained thereafter.
- 4) The development shall not be occupied until a post-completion verification report has been carried out by an acoustic consultant to establish whether the correct acoustic mitigation has been provided to the envelope of the buildings and submitted to and approved in writing by the local planning authority. The report will be expected to demonstrate that the internal noise levels of the dwellings conform to the "good" design range identified by BS 8233: 2014 Sound Insulation and Noise Reduction for Buildings Code of Practice.
- 5) No development shall commence until there shall has been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land identify those to be retained and set out measures for their protection throughout the course of development.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 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.
- 7) No works above damp proof course level shall take place until samples of all external facing and hard surfacing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 8) No works above damp proof course level shall take place until details of all fencing, walling and other boundary treatments have been submitted to and approved by the local planning authority in writing. The development shall be carried out in accordance with the approved details before the first occupation of the dwellings and shall thereafter be permanently retained as such.
- 9) NO₂ data from two diffusion tube monitoring locations (Maid 41 and Maid 63 in the Maidstone Borough Council LAQM Progress Report 2013 Bureau Veritas Air Quality October 2013) shall be used to re-run the model verification report in the Air Quality Assessment (Gem Air Quality Limited) Report Reference AQ0655 October 2015. The results shall be

submitted to and approved in writing by the local planning authority together with details of any necessary mitigation measures. Any necessary mitigation shall be carried out in accordance with the approved details prior to the first occupation of the dwellings and retained and maintained thereafter.

- 10) Details of the location and numbers of log piles, bird, bat and dormouse boxes to be placed on the site shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details prior to the first occupation of the dwellings.
- 11) No dwellings shall be occupied until space has been laid out within the site in accordance with the approved plans for cars to be parked and for vehicles to turn and that space shall thereafter be kept available at all times for the parking and turning of vehicles.
- 12) The development shall not commence until details of a scheme of foul and surface water drainage for the site have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.