
Appeal Decision

Site visit made on 27 March 2017

by David Reed BSc DipTP DMS MRTPI

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

Decision date: 28 April 2017

Appeal Ref: APP/U2235/W/16/3164397

Chapel Nursery, Pleasant Valley Lane, East Farleigh ME15 0BB

- 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 L Hutchinson against the decision of Maidstone Borough Council.
 - The application Ref 16/506832/FULL, dated 12 September 2016, was refused by notice dated 3 November 2016.
 - The development proposed is the demolition of existing dwelling, garage and nursery buildings and erection of 3 detached dwelling houses and 1 detached car barn, with associated gardens, access, parking and turning areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the proposals on the character and appearance of the area, including the effect of the proposal on trees; and
 - whether the proposal would provide satisfactory living conditions for future occupiers in relation to light and outdoor amenity space.

Reasons

Character and appearance

3. The proposal is for three large detached houses on an oblong site on the southern side of Pleasant Valley Lane, a private road running east from Dean Street which provides access to a number of residential properties before continuing into the open countryside. The appeal site is on the edge of the group of houses and for the most part retains an open character. At present the site is occupied by a two storey house set well back from the lane down a long drive, a single garage on the site frontage and a number of dilapidated outbuildings and polytunnels which remain from the previous nursery use of the site. A pair of two storey houses are proposed on the site frontage with a driveway between leading to a third house at the rear.
4. The appeal site and adjacent housing lie well to the west 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 to the site, which defines the Southern Anti-Coalescence Belt (SACB) around the south of Maidstone within which extensions to built-up areas and the consolidation of areas of development by infilling will be resisted¹.

5. The emerging Maidstone Borough Local Plan (EMBLP) does not change the status of the appeal site. On the basis of the new plan the Council claim a five year supply of deliverable housing sites but the appellant disputes this as the examination of the plan is not yet completed. If there is no five year supply, policies for the supply of housing should not be considered up to date and Policies ENV28 and ENV32 of the MBWLP can only be given limited weight. However, for the reason set out in the conclusion, it is not necessary to establish if this is the case in order to determine this appeal.
6. Compared to the existing relatively open site, the proposal would amount to a significant intensification of built development which would be readily apparent from public rights of way along the lane and to the east. At present the only building on the frontage is a small single garage with the house and a few outbuildings being set well back more than 40 m from the lane. Most of the site comprises rough grassland set behind a frontage hedge; the old polytunnels/glasshouses on the site are derelict with little of their structure still left. The adjoining property, a chalet bungalow, is also set well back and Pippin Lodge, another bungalow on the other side of the lane, is similarly low profile. The site therefore represents a suitable transition between the more intensive housing to the west and the open countryside to the east.
7. In contrast, the proposal would involve the loss of most of the frontage hedge and the erection of two quite imposing two-storey houses occupying the full width of the site with hardstanding in front and a central drive leading to an even larger house to the rear. The result would be the loss of the existing semi-rural character of this part of the lane and a marked urbanisation of the site with a hard, built-up frontage. The appellant argues that existing buildings with a footprint totalling 469.3 m² would be demolished and replaced with buildings totalling 259.1 m², but this includes the area of the four derelict polytunnels/glasshouses which total 262 m². Only vestiges of these remain so there would actually be a significant increase in built floorspace on the site and most would be a full two storeys in height compared to many single storey buildings now. The proposal would therefore consolidate development in the SACB albeit only contribute marginally to the potential for coalescence.
8. The existing nursery buildings on the site are somewhat dilapidated but they are the sort of structures commonly found in the countryside and are not visually intrusive. Their removal does not therefore justify the proposal. Renewed nursery use of the site would be likely to involve fewer and/or lower profile buildings, and would therefore be less intrusive than the appeal scheme. As a use it would not necessarily generate significantly more traffic.
9. In addition, a large part of the footprint of the houses on plots 2 and 3 would encroach into the root protection area (RPA) of the tree belt which runs along the south eastern boundary of the site. The tree belt, which is a major feature

¹ Although not included in the EMBLP this policy remains part of the development plan at present.

in the area, comprises about 25 coppiced Sweet Chestnut in good structural condition, each about 12 m high at present and with a long life expectancy. The appellant argues that technical solutions are available to prevent damage to the trees concerned, but the extent of encroachment is put at 27% and 22% for the two plots and this would conflict with BS5837:2012² that unless there is overriding justification, structures should be located outside the RPAs of trees to be retained. This is to prioritise protection of the long term health of the trees. The provision of two houses is not sufficient justification for the level of encroachment proposed in this case.

10. As the houses on plots 2 and 3 would be sited in close proximity to the tree belt there would also be pressure from the occupiers for works to cut back or remove the trees, thus adversely affecting their visual contribution to the character of the area. As coppiced trees, with multiple stems from ground level, the level of shading would be particularly high in summer but also significant in winter. For most of the coppice cycle it is likely the trees would be seen as overbearing and oppressive, with a perceived danger of falling branches, and a source of nuisance such as leaf fall and disruption to garden paving. Whilst the trees are in the ownership of the Council, who would control any works, the proposal would result in inherent conflict between the trees and future occupiers of two properties and in the medium term the interests of the occupiers are likely to prevail.
11. For these reasons the proposal would cause significant harm to the character and appearance of the area and would be likely to adversely affect the tree belt as a result of house construction and pressure for works from future occupiers. This would conflict with Policies ENV28, ENV32 and ENV6 of the MBWLP which seek to resist housing development outside defined settlement boundaries, the consolidation of areas of development south of Maidstone and the retention of existing trees which contribute to the landscape quality of the area.

Living conditions

12. The close proximity of the tree belt, albeit deciduous, to the houses on plots 2 and 3 would materially reduce the amount of daylight entering some rooms. Sunlight would be lost until the early afternoon. In the case of plot 2 the patio doors to the lounge and window to the main bedroom would be most affected and in the case of plot 3 the window to bedroom 4. The patio areas next to the house, where sunshine is most expected, would also be affected, seriously in the case of plot 2 where the patio would be particularly close to the tree belt. The long and narrow rear garden of plot 2, running parallel to the tree belt, would be in shade for the first part of each day and affected by nuisance from roots and leaf fall, limiting its attractiveness and usefulness to the occupiers. The garden of plot 3 would also be affected but not to the same extent due to its location next to the southern boundary and more convenient shape.
13. The proposal relies on continued coppicing of the tree belt to reduce its impact on the living conditions of the occupiers of plots 2 and 3. However, as the Council explain, financial constraints mean this is not guaranteed. Even if coppicing is carried out on a 15-18 year cycle there would be long periods when the trees would have a significant effect on these two properties. The appellant draws attention to other houses near woodland in the vicinity but the detailed relationship in each case is not clear from the information submitted.

² Trees in relation to design, demolition and construction - Recommendations

14. For these reasons the proposal would not result in satisfactory living conditions for the future occupiers of plot 2 and to a lesser extent plot 3 in relation to light and outdoor amenity space. This would conflict with paragraph 17 of the National Planning Policy Framework which seeks to secure a good standard of amenity for future occupants of land and buildings.

Other matters

15. Policy H29 of the MBWLP, which allowed infilling outside defined settlement boundaries, was deleted from the plan in 2007. This probably explains the recent housing development at Meridian, Dean Street which was allowed in 2007. It is appreciated that the informal pre-application advice relating to the scheme was positive but this pre-dated the arboricultural report and in any event does not bind the Council.

Conclusion

16. The proposal would provide a net gain of two dwellings to help meet housing needs in a reasonably sustainable location³ which would offer important social and economic benefits for the area. However, the environmental and other objections to the development identified under the two main issues significantly and demonstrably outweigh these benefits, meaning that the proposal cannot be considered as a fully sustainable development. Consequently, the presumption in favour of sustainable development does not apply in this case even if there is no five year supply of housing land in the district.
17. Having regard to the above the appeal should be dismissed.

David Reed

INSPECTOR

³ Within walking distance of Coxheath village centre and close to bus services along Dean Street and Heath Road.