
Appeal Decision

Site visit made on 2 July 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2019

Appeal Ref: APP/U2235/W/19/3221575

7 Linton Road, Loose, Kent ME15 0AG

- 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 I & P Worthy against the decision of Maidstone Borough Council.
 - The application Ref 18/502752/FULL, dated 14 May 2018, was refused by notice dated 2 August 2018.
 - The development proposed is described as "dwelling with off road parking to the rear of 7 Linton Road, Loose. (Amended scheme)".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Further revisions have been made to the National Planning Policy Framework during the course of my consideration of the appeal and a revised version was published in February 2019 (the Framework). The changes to the Framework do not materially alter the policies within the Framework most relevant to this appeal.
3. The Council have advised that since the application was determined the Loose Neighbourhood Plan (NP) has been examined by an independent Examiner in March 2019. The modifications set out in the examiner's report and the decision to proceed to referendum was agreed by the Council on 25 June 2019. The referendum will take place on 8 August 2019, and following a successful referendum, the neighbourhood plan will form part of the development plan for the Borough. The Council has provided a copy of the NP with its appeal statement and the appellant has been provided with an opportunity to comment on this. Therefore, I have attached substantial weight to the NP but not the full weight of an adopted Local Plan.

Main Issues

4. The main issues are the effect of the proposal on:

- 1) The character and appearance of the area; and whether the proposals would preserve or enhance the character or appearance of the Loose Conservation Area (CA);
- 2) The living conditions of existing occupiers of Stonestacks with particular regard to outlook;
- 3) The Ancient Woodland.

Reasons

Character and appearance

5. The appeal site forms part of garden land associated to No 7 Linton Road. No 7 comprises one half of a substantial semi-detached property (attached to 7a Linton Road) faced in ragstone with a slate roof. The site lies within the Loose Conservation Area (CA) and the Loose Valley Landscape of Local Value, and is accessed from Salts Lane, via the existing gated driveway serving Nos 7 and 7a. The site is located on rising ground from Salts Lane and lies adjacent to an Ancient Woodland, protected under Tree Preservation Order No. 11 of 1996.
6. With regards to the effect on designated heritage assets, Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, (the Act) requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
7. The CA covers a large area which incorporates the historical village of Loose as well as stretches of the Loose Valley and wider natural landscape. Whilst there is no CA appraisal available, the Maidstone Landscape Character Assessment amended July 2013 (character assessment) explains that Loose Valley comprises a valley through which flows a tributary of the River Medway known as the Loose Stream. The character assessment highlights that one of the key characteristics of the area is its steep wooded valley sides, and that any new development should maintain the rural and tranquil character. I also observed that the existing site, which remains largely open and landscaped, next to the relatively long stretch of Ancient Woodland makes a positive contribution to the openness and verdant character of the area and the significance of the CA.
8. It proposed to construct a detached two-storey three-bedroomed dwelling with two associated parking spaces located to the rear of the site. Access to the site is proposed via the existing private driveway off Salts Lane.
9. The site is situated outside the urban area/settlement boundary of Maidstone, as defined in the Maidstone Borough Local Plan, 2017 (LP), and therefore in policy terms it is within the countryside. Whilst Policy LP3 of the emerging NP separates development inside and outside the built area of Loose, the policy nevertheless relates to new development in the countryside and therefore the development must be considered against the relevant countryside policies. LP Policy SP 17 explains that development proposals shall not result in harm to the character and appearance of the area, and that the distinctive landscape character of the Loose Valley will be conserved and enhanced as landscapes of local value. The justification for the policy states that the countryside has an intrinsic character and beauty that should be conserved and protected for its own sake.

10. The appeal site, adjacent Ancient Woodland, forms a substantial break in built form on this side of Salt Lane. The undeveloped nature of the site, together with the existing soft landscaping fronting the site provide a verdant and rural character. The proposed two storey dwelling, would erode the largely undeveloped open space fronting Salts Lane which contributes positively to the openness of the CA. Consequently, the proposal would harm the character and appearance of the CA, and the character, appearance and intrinsic beauty of the Loose Valley Landscape of Local Value and the surrounding countryside.
11. The design and traditional materials would not be dissimilar to other properties in the CA, which are mixed in character and appearance. The height of the development has been reduced from the previous withdrawn scheme¹ and the dwelling would also be set-down into the site and set back from the street. However, these positive aspects of the proposal would not outweigh the harm I have identified to street scene, as the position of the dwelling would be particularly discordant.
12. In the terms of the Framework and paragraph 196, the harm that the proposal would cause to the significance of the designated heritage asset, that is the CA, would amount to less than substantial harm. Accordingly, this should be weighed against the public benefits of the proposal. The proposal would deliver an additional dwelling, thereby making a small but positive contribution towards boosting the supply of housing. However, these positive aspects of the proposal would not outweigh the harm I have identified to street scene as the position of new dwelling would be particularly discordant.
13. On balance, because of its prominent location, the proposed dwelling would result in an intrusive and incongruous addition, which would be harmful to the character and appearance the area, and the CA as a whole. As such, it would fail to preserve or enhance the character or appearance of the CA, contrary to the Framework and LP Policies SP17, SP18, DM1, DM3, DM4, and DM30. Amongst other things these require proposals to create high quality design and respond positively to, and where possible enhance, the local, natural or historic character of the area, and recognise the intrinsic character and beauty of the countryside.
14. The proposal would also be contrary to the emerging NP policies LP2, LP3, LP4, DQ2. Amongst other things these require development proposals in the Loose Valley Area of local landscape value to have particular regard to the scenic quality and distinctive character of the area. They also seek to ensure that development respects and complements the rural settlement form, pattern, character and its landscape setting, and preserve or enhance the setting of the area and the historic character of Loose.
15. The Council have also raised concerns that the location of the dwelling, close to the Ancient Woodland would also result in the potential loss/harm to the ancient woodland which would have a detrimental effect on the character appearance of the area. I will return to this matter in my assessment below.

¹ Council Ref: 16/507120/FULL

Living conditions of existing occupiers of Stonestacks – Outlook

16. At present, occupiers of Stonestacks, Salt Lane, have an open outlook across their rear/side garden. The proximity and increase in massing of the proposal in close proximity to the side/rear garden of Stonestacks, would appear oppressive and overbearing from this adjacent garden with resulting harm to the outlook from the garden currently enjoyed by the existing occupiers of this neighbouring property. The proposed two storey building would dominate this immediate scene and make occupiers of Stonestacks feel a greater and uncomfortable sense of encroachment. I do not consider that the proposed set back away from the boundary of this property, in addition to the reduced height and scale of the proposed development compared to the earlier withdrawn scheme, would overcome this harm.
17. Accordingly, I find that the proposal would have a harmful impact on the living conditions of neighbouring occupiers of Stonestacks. As such the proposal would conflict with the Framework and LP Policy DM1 which requires development to be of a high quality design that respect the amenities of occupiers of neighbouring properties.

Ancient Woodland

18. The site is located close to an Ancient Woodland that is protected under Tree Preservation Order No 11 of 1996. Government guidance on Ancient Woodland, ancient trees and veteran trees: protecting them from development, by the Forestry Commission and Natural England², states that Ancient Woodland takes hundreds of years to establish and is defined as an irreplaceable habitat which is important for its wildlife. Paragraph 175 c) of the Framework states that “development resulting in the loss or deterioration of irreplaceable habitats (such as Ancient Woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exist”.
19. Both parties have submitted their views on the likely effect of the proposed development on the adjacent Ancient woodland and have submitted supporting information. This includes the advice contained within the Council’s character assessment, and the BSI Standards Publication BS5837:2012 'Trees in relation to construction - Recommendations'.
20. From my examination of the detailed material submitted, I agree with the appellants that the proposal would not have a harmful effect on the Ancient Woodland. Whilst I acknowledge the concerns of the Council’s Landscape Officer, I consider that the position of the dwelling and garden, would be set back a sufficient distance from the woodland to ensure that it would not have a harmful effect on the Ancient Woodland, nor result in pressure for future pruning works. Furthermore, I note that if permission were granted, the appellant would be willing to accept a condition to reposition the window to bedroom 2 to the rear elevation, to further mitigate against any potential harm to the Ancient Woodland. As there are already windows proposed on the rear elevation, and the Council have not raised any objection to these, the repositioning of this single window would not result in any harm to the living conditions of neighbouring occupiers.

² Dated 13 October 2014

21. Furthermore, both parties agree that the new dwelling would not directly encroach into the Ancient Woodland, given the existence of the driveway, separating the site from the woodland, and I have no evidence before me to reach a different conclusion.
22. Consequently, for the reasons set out above, the development would not result in harm to the Ancient Woodland, which is an irreplaceable habitat important for its wildlife. In this respect I find this aspect of the proposal would not conflict with LP policies SP17, DM3, and DM30 and the Framework. Amongst other things, these require new development protects and enhances the natural environment, and the distinctive landscape character of Loose Valley to be conserved or enhanced. However, this is just one matter in the overall assessment of the proposal and does not alter my judgement set out earlier.

Other matters

23. In support of the appeal, my attention has also been drawn to a number of other approved developments. However, I do not know the full circumstances of those cases and therefore cannot be sure that they represent a direct comparison to the current appeal proposals. Indeed, none of the other decisions appear to be situated on a similar valley side location next to an Ancient Woodland with the same characteristics as the appeal before me. For example, the Well Street development mentioned is not within the conservation area. As such, I have dealt with the current appeal proposal on its merits, in accordance with its site specific circumstances, and relevant national and local policy.

Conclusion

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

Rajeevan Satheesan

INSPECTOR