



Appeal Decision

Site visit made on 27 June 2019

by C Hall BSc MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th August 2019

Appeal Ref: APP/U2235/W/19/3220403

Vine Cottage, Pye Corner, Ulcombe ME17 1EF

- 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 Paul Turner against the decision of Maidstone Borough Council.
 - The application Ref 18/503313/FULL, dated 20 June 2018, was refused by notice dated 5 September 2018.
 - The development proposed is the demolition of the existing chalet bungalow, garage and two outbuildings and the erection of a four bedroom, two storey dwelling with car parking and a new vehicular access and landscaping.
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Decision

1. The appeal is dismissed.

Application for costs

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

Main Issues

3. The main issues are the effect of the proposal on:
 - the character and appearance of the area; and
 - ecology.

Reasons

Character and appearance

4. From the public highway, the appeal site is partly screened to the sides by hedgerows, tree and overgrown vegetation. The house and outbuildings themselves are only apparent from the public domain in localised views, with mature vegetation on the wider boundaries to the south, east and west screening the site. Although small amounts of development are scattered along the road, the predominant character of the area is rural open countryside designated as part of the Ulcombe Low Weald Landscape of Local Value (LLV).
 5. The appellants state that the volume of the original dwelling is 250m³ and the proposed replacement dwelling would have a volume of some 780m³. These figures are not disputed by the Council in its appeal statement and I have therefore dealt with the appeal on this basis. I also note that in principle the replacement of the existing dwelling is accepted by the Council.
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6. The existing dwelling is a modest chalet bungalow that has a natural affinity within the landscape setting. By contrast, the appeal proposal would have a greater depth, width and height than the chalet bungalow. The end result would be a building that would be significantly larger in volume, bulk and mass than that which presently exists on site. Although this is not expressly precluded by relevant local plan policies, I bear in mind that policy DM32 of the Maidstone Borough Local Plan October 2017 (LP) states that proposals for the replacement of a dwelling in the countryside will be permitted providing, amongst other things, the mass and volume of the replacement dwelling is no more visually harmful than the original dwelling and the replacement dwelling would result in a development which is visually acceptable in the countryside.
7. To my mind, the greater length, depth and height of the appeal proposal and the more solid, rectangular form of the elevations would contrast significantly with the more diminutive proportions of the existing property. The west-facing side and south-facing rear elevations in particular contain little articulation or architectural detailing to provide interest or relief. Cumulatively the extent and bulk of the proposals would lack architectural subtlety and the scale and design of the building would result in a harsh, urban intrusion into the pleasant verdant setting. This would fail to reflect the character and appearance of the site or contribute positively to the conservation and enhancement of the protected LLV.
8. I recognise that the appeal dwelling would be built in an engineered depression further away from the public highway than the existing house, and that landscaping could soften the building to a degree. However, given the mass, height and bulk of the building the expanse of uninterrupted roof would still be visible above and over the existing building despite the lowering of the ground level and the increased distance from the road. Any additional screening would need to be of a height and density that of itself would look unusual or out of place within the context of this unassuming rural lane.
9. The appellants have provided information relating to the unexpended permitted development (PD) rights afforded to the existing dwelling and a court case which supports the view that such rights are a legitimate fallback position that should be taken into account when assessing whether the proposal would be more visually harmful. However, in my view even if the PD rights were utilised, the resultant scale of the dwelling would not have the same massing as the proposed dwelling. Furthermore, the side and rear extensions and detached garage would be single storey and while potentially greater in width, would have a lesser bulk than the proposed dwelling. The appeal scheme would therefore represent a retrograde step and as such I only give the unexpended PD rights limited weight.
10. I therefore conclude that the development would be harmful to the character and appearance of the area. It would fail to accord with policies SP17, DM1, DM30 and DM32 of the LP and the Maidstone Landscape Character Assessment Supplement 2012. Taken together these policies seek to ensure that development responds positively to natural character, is of high quality design, contributes positively to the conservation and enhancement of the protected landscape, would be no more visually harmful than the original dwelling and would result in a development which is visually acceptable in the countryside. I have been referred to the Residential Extensions SPD May 2009, however I do not consider that this is directly applicable as the appeal relates to a new dwelling and not an extension.

11. The scheme would also be inconsistent with the advice in the National Planning Policy Framework (the Framework) which states that good design is a key aspect of sustainable development and seeks to protect and enhance valued landscapes.

Ecology

12. An ecological survey has been submitted as part of the appellants' grounds of appeal. This states that there is no evidence of any species, or habitat suitable for any species, which are specifically protected under wildlife legislation anywhere on the site except for the slight potential use of hedgerow and scrub by dormice; the survey contains mitigation recommendations in this respect. I am satisfied that there would be not harm to protected species and that suitable measures could also be taken to enhance biodiversity on site through additional planting. As part of its submissions the Council has indicated that the second reason for refusal can be removed.
13. I therefore conclude that the proposal would not result in any adverse effects with regard to ecology. It would meet the provisions of policies DM1 and DM3 of the LP which require development to protect and enhance the natural environment and on-site biodiversity. It would also be consistent with the advice in the Framework which seeks to protect and enhance biodiversity.

Other matters

14. I acknowledge that there is support for the development from the Parish Council and that the development would have no adverse impact when viewed from public footpath KH330 to the south and east, due to the separation distance and intervening boundary screening. At the site visit I noted the position of the new access and am satisfied that the proposal would not result in an adverse loss of trees. I also appreciate that the site attracts crime and waste dumping and the appellants' desire to provide a safe and secure home environment. These however do not outweigh the harm that I have identified above.
15. The appellant states that the development would also result in the removal of a storage shed from the adjacent paddock. Whilst this is not particularly attractive, it is relatively superficial and its removal, and thus tidying up of the area, could easily take place irrespective of whether a new dwelling is built. I therefore afford this argument very limited weight in this appeal.

Conclusion

16. For the reasons given above I conclude that the appeal should be dismissed.

C Hall

INSPECTOR