



Appeal Decision

Site visit made on 13 August 2019

by M Heron BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th October 2019

Appeal Ref: APP/U2235/W/19/3229000

**Summer Place (Vacant Plot), Caring Lane, Bearsted, Maidstone, Kent
ME14 4NJ**

- 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 Len Freind against the decision of Maidstone Borough Council.
 - The application Ref 18/505721/FULL, dated 28 October 2018, was refused by notice dated 23 January 2019.
 - The development proposed is the provision of a two-bedroom detached chalet bungalow and double garage.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. A postcode is not given in the address for the appeal site on the submitted application form. However, one is provided within the appeal form. I have included this in the heading above for the sake of clarity.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the countryside;
 - whether or not the appeal site is a suitable location for residential development having regard to local and national planning policy for the delivery of housing; and
 - the effect of the proposal on the living conditions of the occupants at No 22 Caring Lane, with particular regard to privacy.

Reasons

Character and Appearance

4. The appeal site is a broadly rectangular parcel of open land on the western side of Caring Lane. It is positioned outside of a defined settlement as shown within the Maidstone Borough Local Plan (LP). For the purposes of planning policy, it is therefore in the countryside.
5. The site is bound to the north by No 22 Caring Lane. This is a single storey dwelling located at the end of a small ribbon of linear residential development

set along the narrow lane. However, a field which appears to have been used in conjunction with a former nursery wraps around the site's southern and western boundaries. This field accommodates several established trees. In addition, facing the site, across Caring Lane, there are large open fields. Overall, despite the presence of nearby built form, I found that the immediate area has a distinctly rural character. The open, predominately undeveloped, nature of the appeal site contributes positively to this character.

6. This proposal seeks full planning permission to construct a detached chalet style bungalow with an associated detached garage. The height and individual design of this property would harmonise with that of nearby dwellings. Nonetheless, the proposal would introduce urbanising features including residential buildings, hard surfaces and a garden with its associated domestic paraphernalia to the site. Not only would this considerably erode its openness, but in my view the increased presence of urban development would also appear out of character at this rural location. The harmful domestication of the appeal site would be readily apparent from the public domain.
7. Taking the above into account, even if the proposal was taken to represent 'infill' development, I am not persuaded that it would integrate effectively with its surroundings. On the contrary, the scheme would represent a conspicuous urban feature that would fail to function well or add to the quality of the area, as advocated by the National Planning Policy Framework (the Framework).
8. Although suitable materials could be used for the proposal, this would not address the fundamental problem associated with the harmful introduction of urban form into this rural setting. Planting could help further screen the proposal. However, the purpose of planting and landscaping is to integrate development into its surroundings; it is not a means of hiding development that is otherwise unacceptable. Consequently, conditions specifying materials and requiring such planting would not mitigate the harm I have identified.
9. For the reasons given, I conclude that the proposal would harm the character and appearance of the countryside. It would therefore conflict with Policies SP17 and DM30 of the LP. Amongst other things, these seek to ensure that developments in the countryside maintain and enhance local distinctiveness and do not harm the character and appearance of the area. The Council's decision notice also makes reference to the Len Valley Landscape of Local Value (LLV). I have not been provided any details of this LLV and therefore do not know how the proposal would impact upon it. In any event, as I have found that the proposal would harm its immediate setting, this has not been determinative in my decision.
10. Turning to the Framework, this states that windfall developments, in the right location, can make a valuable contribution to meeting housing requirements and seeks to make efficient use of land. However, this should not be at the expense of achieving high quality development which is sympathetic to local character, including the surrounding setting. I have found that the proposal would not achieve this. There is therefore conflict with the design objectives of the Framework.

Suitable Location

11. Policy SS1 of the LP states that the primary focus for new housing will be an expanded Maidstone urban area. It also states that some housing will be

- directed to rural service centres and larger villages. Amongst other things, this is to ensure that development is directed to towns and villages where services and facilities, together with a range of transport choices, are available.
12. Given the appeal sites proximity to other residential properties, the proposal would not represent a truly 'isolated home in the countryside' with regard to paragraph 79 of the Framework. To say otherwise would be contrary to recent case law¹.
 13. Nonetheless, the proposal would be a considerable distance away from the necessary range of services required to meet all of the day-to-day needs of future residents. I note that there are bus stops along the A20 to the north of the appeal site. These provide access to facilities in larger settlements such as Maidstone. However, accessing these bus stops by foot would involve walking along the narrow and unlit Caring Lane, which has no footways. Whilst it appears that the nearby expanded car park at G Forces Web Management Ltd has not compromised highway safety along this carriageway, I therefore consider that this would not always be an attractive route for pedestrians. This would be particularly so for those with mobility problems and during hours of darkness and in inclement weather. For the same reasons, cycling is unlikely to be a realistic alternative. In any event, there is no guarantee that future residents would cycle or jog to employment or other services.
 14. Taking all of the above factors into account, it is reasonable to consider that the future occupants would not only be some distance from the day-to-day services they need but they would also often rely on a private vehicle to get around. In my view, the 20-30 minute walk to services along the adjacent public footpath network is unlikely to significantly diminish this reliance. Although vehicular trips associated with the proposal would not be significant in number, the appeal site is not a location where there are realistic and convenient travel choices and is therefore not where a new dwelling could be considered acceptable. Neither do I have any substantive evidence to show that its distance from services would promote an active and healthy lifestyle as advocated by the Framework.
 15. I accept that private vehicles are likely to be utilised by nearby residents in this rural area, and indeed by those living in urban areas, to access facilities and employment and undertake leisure pursuits. Nonetheless, this is not a justification for permitting a scheme that would fail to comply with the Council's strategy for new housing growth.
 16. For the reasons given, I conclude that the appeal site is an unsuitable location for a residential development due to the lack of access to local facilities and services and the reliance it would place on the use of private vehicles. It would therefore conflict with the Council's strategy for housing as set out in Policy SS1 of the LP.

Living Conditions

17. The proposed dwelling would be positioned close to, and in line with, No 22. It would have a first floor side facing window within its northern elevation which would serve a bedroom. This window would not afford direct views of the primary garden area at No 22. Nevertheless, it would provide direct and close

¹ R (Braintree District Council) – v – (1) SoS for CLG (2) Greyread Ltd (3) Granville Developments Ltd [2017] EWHC 2743 (Admin)

distance views into a first floor side facing window within the southern elevation of this neighbouring property. This neighbouring window appears to serve a habitable room and I have no substantive evidence before me to show otherwise. Consequently, I cannot be certain that the proposal would not unacceptably reduce the privacy of the occupants at No 22.

18. To attempt to overcome the above mentioned harm, I recognise that a condition could be imposed which required the first floor side facing window within the northern elevation of the proposal to be obscure glazed. However, although the bedroom served by this window would benefit from two roof lights, I consider that such an approach would significantly, and unacceptably, diminish the outlook within this room. Consequently, it would not be reasonable to impose such a condition, with regards to the tests set out at paragraph 55 of the Framework.
19. For the reasons given, I conclude that the proposal would harm the living conditions of the occupants of No 22 in terms of privacy. It would therefore conflict with Policy DM1 of the LP. Amongst other things, this seeks to ensure that proposals respect the amenities of the occupiers of neighbouring properties in terms of privacy. I have also been referred to Policy DM30 of the LP. However, this deals with character and appearance and is not relevant to this main issue.

Other Consideration

20. This scheme would be a 'self-build' development, for which the Government has shown some support. Nevertheless, there is no legal mechanism before me to secure the construction and subsequent occupants in such a manner. Neither do I consider that it would be appropriate to secure this through the imposition of conditions. Consequently, even if there is demand for 'self-build' projects within the Borough, this small benefit of the scheme attracts only limited weight in my assessment.

Planning Balance

21. The Council states that it can demonstrate a five year supply of deliverable housing land at this point in time. This does not appear to be contested by the appellant. Taking this into account, I see no reason to engage the weighted presumption outlined at paragraph 11 of the Framework.
22. In any event, the Government is seeking to significantly boost the supply of housing. The proposal for one dwelling would make a minor contribution to the Borough's housing stock, with associated social and economic benefits. The Council also consider that it would allow for an enhancement of biodiversity at the appeal site. These factors weigh in the scheme's favour.
23. In addition, the proposal would be acceptable insofar as it would provide suitable living conditions for future occupants and would not prejudice highway safety. However, these are requirements of the development plan and are therefore neutral factors in the overall balance.
24. On the other hand, I have found that the appeal site would not be a suitable location for residential development as the proposal would not align with the Council's strategy of seeking to direct development to within existing settlement boundaries where there is a good access to services and realistic transport choices. Neither am I persuaded that it would maintain or enhance

the vitality of the rural community or improve its broader sustainability, as advocated by the Framework and the Planning Practice Guidance respectively. Furthermore, I have found that the scheme would result in harm to the character and appearance of the area and the living conditions at No 22 in terms of privacy. These are matters which both individually and collectively attract significant weight.

25. In my view, the adverse effects would significantly and demonstrably outweigh the benefits associated with the provision of one dwelling. The proposal conflicts with the development plan as a whole and there are no material considerations, including the advice of the Framework, which outweigh this conflict.

Conclusion

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

M Heron

INSPECTOR