



Appeal Decision

Hearing Held on 29 October 2019

Site visit made on 29 October 2019

by E Brownless BA (Hons) Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 16 April 2020

Appeal Ref: APP/U2235/W/19/3227768

**Land at Junction of New Cut Road and Bearsted Road, Weaving, Kent.
Easting 578153 and Northing 156789.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by La Dolce Vita against the decision of Maidstone Borough Council.
 - The application Ref: 18/503492/OUT, dated 29 June 2018, was refused by notice dated 31 October 2018.
 - The development proposed is the erection of a care home (Use Class C2) including landscaping, parking and associated works. Including full details of access arrangements.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The site address provided upon the application form referred solely to easting and northing coordinates albeit a description of the site address was also provided. As such, I have amended the site address to include the description of the site address cited by the appellant on the application form and upon the Council's decision notice. This accurately reflects the appeal site and concurs with the address provided by the appellant when making this appeal.
3. The application was made in outline with all matters except access reserved for future determination. A plan has been provided showing the proposed siting of the care home. I am advised that this is indicative only, and I have considered the appeal on this basis.
4. The Council's decision notice cited only one reason for refusal concerning the effect of the proposal on the character and appearance of the surrounding area. Notwithstanding this, since the application was determined by the Council, the Highway Authority (HA) have raised an objection to the proposed scheme due to revisions the HA have made to a highways scheme at the point of the appeal site. I must determine this application on the basis of the evidence as it appears before me at the time of writing this decision. At the hearing, the parties were allowed the opportunity of providing their comments on this matter and I have had regard to these in my reasoning below.
5. At the hearing I was provided with 'Site Overview Drawing Number THaT/4005/CPT/08.01 Rev 0'. This was provided by the appellant on an illustrative basis to demonstrate the potential conflict between the proposed access and pedestrian crossing.

Main Issues

6. The main issues are the effect of the proposal on the character and appearance of the surrounding area and highway safety.

Reasons

7. The appeal site lies within the urban boundary of Maidstone within an open area to the north of the built-up residential area of Grove Green. It has no national or local landscape designation and is not considered a valued landscape under the National Planning Policy Framework (the Framework). Policy DM14 of the Maidstone Borough Local Plan (2017)(LP) specifically relates to the provision of nursing and care homes and outlines that within defined settlement boundaries of the urban area, proposals for new nursing and residential care homes will be permitted subject to meeting certain criteria. Among other things, one such criterion requires a proposal not to adversely affect the character of the locality.
8. The appeal site comprises a roughly rectangular, gently sloping, parcel of land located at the roundabout junction of New Cut Road and Bearsted Road. It is positioned at a lower ground level than the adjacent highway. Presently it is an unused open area of rough grassland together with self-set trees and shrubs that have a largely unmanaged appearance.
9. To its rear and to one side, the appeal site is bounded by a stream and dense mature woodland that adjoins Weaving Heath. To the opposite side of New Cut Road, further grassland and woodland surrounds Vinters Park Crematorium. Whilst the existing vegetation provides a degree of enclosure to the sides and rear of the site, in visual terms, the appeal site is nonetheless open and allows views of the woodland backdrop. As such, the site is readily visible in views from the highway and footways leading to the roundabout together with views from private land positioned to the north of Bearsted Road.
10. Despite the presence of a small number of dwellings and the crematorium, the south side of Bearsted road is generally undeveloped and has a pleasant, spacious and verdant character. The Maidstone Borough Landscape Capacity Study (2015)(LCS) identifies that the mature trees form an attractive aesthetic landscape feature and the stream corridor forms an integral part of the wider landscape pattern that provides an attractive scenic quality. Albeit the LCS was undertaken prior to development to the northern side of Bearsted Road, the appeal site, although relatively small, shares these common characteristics with adjoining land.
11. Notwithstanding the change in landscape pattern to the north of Bearsted Road, together with changes to planning policy, in particular an extension to the urban boundary, I find that the site makes a substantial positive contribution to the semi-rural character of the surrounding area and it supports an important landscape buffer providing separation between the urban residential area and the built form to the north of Bearsted Road. It provides a valuable contribution to the quality of the local environment and given its prominent position at the edge of the roundabout, I consider that the appeal site is visually and functionally very important in relation to its contribution to the open landscape setting to the south side of Bearsted Road.

12. Although all matters are reserved apart from access, the proposal would introduce a care home providing in the region of 63 bed spaces and ancillary facilities together with a vehicular and pedestrian access and approximately 25 car parking spaces. The illustrative layout shows the proposed building positioned towards the tree belt to the rear and side of the site where, it was suggested at the hearing, that this layout would provide the greatest opportunity to use landscaping to screen the development. There was no other layout before me.
13. Albeit the design, scale, bulk and mass cannot be considered comprehensively, by reason of the proposed building incorporating up to 63 bedrooms and a floor space in the region of 2874 square metres, it would likely be substantial in scale, height, bulk and mass. As such, the proposal would inevitably introduce built form and hardstanding over a large proportion of the site.
14. I have had regard to images and illustrative montages provided in support of this appeal together with the Landscape and Visual Impact Appraisal. These indicate how the existing and proposed planting could screen the proposal. However, given the constrained size of the appeal site, the screening is unlikely to be comprehensive. Albeit features such as green walls and roofs would be included, by reason of the likely scale, height, bulk and mass of the proposed building, in my view, the proposed planting would not sufficiently ameliorate the impact of a building on the appeal site.
15. In addition, the proposed vehicular and pedestrian access road would necessitate a gap in the boundary treatment. The access road itself would be an indication of development and it would be clearly visible from Bearsted Road. There would be movement and activity along the access road and within the development. Notwithstanding the use of low level and nominal lighting, there would nonetheless be some light pollution from within the proposed building and external areas such as the car park. Therefore, I find that the visual impact of the proposal would be substantial in views through or over vegetation, even if the vegetation were to reach full maturity, and through the opening for the access. These views would increase at times when vegetation is less dense, for instance, during the winter months. Overall, the proposal would therefore erode the open characteristics and landscape value that this site provides.
16. New development at the Kent Institute of Medical and Surgery (KIMS) has introduced built development and eroded the open space to the north side of Bearsted Road. The KIMS site presently consists of a number of three and four storey buildings set within an extensive parcel of land that encompasses a spacious campus style layout. The existing buildings are set back from the highway, and consequently the layout enables a sense of openness to be maintained along the road frontage.
17. Further buildings are planned at the KIMS site, of which, some would be likely to be positioned closer to Bearsted Road and the appeal site than the existing KIMS buildings. However, I am advised that these future developments would benefit from screening by way of a substantial structural landscape scheme. By reason of the constrained size of the appeal site, there is limited scope to introduce a similar planted frontage as is envisaged by future developments at KIMS and in a similar manner to the setting of Vinters Park Crematorium which is set within extensive dense wooded blocks. Moreover, given the likely scale of

the proposal within a relatively small site, I find that it would not appear as a campus style layout. Consequently, the two schemes are not directly comparable in terms of their visual impact.

18. For the above reasons, the appeal proposal would be seen as a cramped, dominant and incongruous feature that is out of keeping with the semi-rural landscape of the surrounding area. As a consequence, the proposal would inevitably lead to a significant urbanisation of this area of land when viewed from the highway, nearby footpaths and surrounding land in private ownership.
19. Accordingly, I conclude that the proposal would be materially harmful to the character and appearance of the surrounding area. The proposal would conflict with LP Policies DM1, DM3 and DM14. Among other things, these policies require high quality design that responds positively to the local and natural environment and protects positive landscape character. In addition, it would be contrary to the aims of the Framework insofar as development should contribute to and enhance the natural and local environment.

Highway safety

20. A new vehicular and pedestrian access would link the site to Bearsted Road and the footway running partly along the edge of the site boundary. Since the Council determined the application, the Highways Authority (HA) have made some modifications to their A249 Bearsted Road Improvement Scheme, including the addition of a controlled pedestrian crossing. These revisions form part of the final scheme design with implementation of the scheme likely to commence late in 2019/early 2020. Given the need to maintain a sufficient separation distance between the pedestrian crossing and the roundabout, the HA confirmed it is not possible to relocate the crossing to an alternative position that does not conflict with the proposed access.
21. As a consequence, the proposed access would interfere with the pedestrian crossing. The parties accepted at the hearing that the appellant's plan titled 'Site Overview Drawing Number THaT/4005/CPT/08.01 Rev 0' was illustrative of the potential conflict between the proposed access and pedestrian crossing.
22. At the time of my site visit, Bearsted Road received a relatively heavy flow of traffic including vans and heavy goods vehicles. Taken together with the close proximity of the location of the proposed access and planned pedestrian crossing, I find that there would likely be significant pedestrian and vehicle conflict from turning vehicles entering and exiting the site, such that pedestrian and driver safety would be unduly compromised.
23. I am cognisant that the appellant has been unable to formulate any alternative access arrangements or prepare any plans since this matter came to light. As such, I have considered whether it would be suitable to deal with this matter by way of an appropriately worded condition, in particular suggested condition number 13, which would require the submission and subsequent approval of an alternative access. However, in the absence of any evidence to the contrary, I am not persuaded that a safe and convenient access would be achieved as is required by paragraphs 108 and 109 of the Framework. Whilst the Council did not cite this as a reason for refusal, in consideration of this appeal, I attach substantial weight to this matter and irrespective of my findings in relation to character and appearance, I would have been minded to dismiss this appeal on the grounds of highway safety alone.

Other Matters

24. The appellant has drawn my attention to a previous appeal decision¹ at the site. I note that the appeal site was previously designated as public open space within a strategic gap. The local plan altered this. In addition, the urban boundary has been extended. The circumstances and issues surrounding that appeal were materially different to the one before me and I have determined this appeal on its individual merits.
25. The proposal would be complimentary to the uses at the KIMS site. No harm has been identified with regard to ecology, loss of trees, flood risk, parking, air quality, noise or the living conditions of neighbouring occupiers or the future occupants of the proposed scheme. However, the absence of harm is a neutral matter that weighs neither for nor against a proposal.
26. LP Policy SP19 is supportive of the provision of specialist and supported housing for the elderly, disabled and vulnerable. There remains a difference of position between the parties as to the correct figure for the future demand for additional nursing and care home spaces over the full plan period, 2011-2031. However, even if I were to accept the appellant's position that 1245 care home bed spaces are required rather than the Council's figure of 980, there remains a considerable period of time outstanding within the local plan period in which to meet the demand.
27. Moreover, whilst I am mindful of the appellant's view that the proposal would be marketable and attractive to care home operators and I accept the provision of a care home would meet a demonstrable need and thus weigh in favour of the proposal, it does not in my view outweigh the substantial harm caused to the character and appearance of the area.
28. The appellant has identified a number of benefits associated with the proposal which I have considered in turn. The site is located within an accessible location which would encourage the use of sustainable transport modes such as the use of the bus and walking. The proposal would incorporate ecological improvements along the stream boundary. In addition, the proposal would generate economic benefits during construction and employment within the care home. However, I find these benefits would be temporary and/or relatively modest and would not outweigh the harm I have identified.

Overall conclusion

29. For the reasons given above, and having regard to all matters raised, I conclude that the appeal is dismissed.

E Brownless

INSPECTOR

¹ APP/U2235/W/15/3002874

APPEARANCES

FOR THE APPELLANT:

Philip Villars	Director, WSP Indigo Planning
Anna Stott	WSP Indigo Planning
Meyric Lewis	Counsel for the Appellant
Mohi Uddin	DKLM Solicitors
Mark Topping	Landscape Architect, Surface Property
Kazi Abdul	For La Dolce Vita
Ricardo Gomez	Hatch Regenerist
David Walpole	Highway Consultant, That Consultancy

FOR THE LOCAL PLANNING AUTHORITY:

Austin Mackie	Major Projects Manager, Planning Team
Adam Reynolds	Senior Planning Officer
Deanne Cunningham	Team Leader for Heritage, Landscape and Design

FOR THE HIGHWAY AUTHORITY:

Brendan Wright	Principal Transport and Development Planner
----------------	---

INTERESTED PERSONS:

Bob Hinder	Maidstone Borough Council Ward Councillor & Parish Councillor
Anne Brindle	Maidstone Borough Council Ward Councillor & Parish Councillor
Matthew Garvey	DHA Planning, For Kent Medical Campus

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Notification of appeal dated 4 September 2019
- 2 Notification of hearing dated 30 September 2019
- 3 Statement of Common Ground dated 28 October 2019

PLANS SUBMITTED AT THE HEARING

- A Site Overview Drawing Number That/4005/CPT/08.01 Rev 0