



Appeal Decision

Site visit made on 24 June 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 August 2020

Appeal Ref: APP/U2235/W/20/3246683

Marshall's Place, Amber Lane, Chart Sutton, Maidstone, Kent, ME17 3SE

- 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 and Mrs R Turner against the decision of Maidstone Borough Council.
 - The application Ref MA/19/502408/FULL, dated 3 May 2019, was refused by notice dated 29 August 2019.
 - The development proposed is the removal of existing tennis court and 2 no. timber sheds, erection of two detached 4 bedroom chalet style dwellings, to use existing drive, with double garages and new turning head.
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Decision

1. The appeal is allowed and planning permission is granted for the removal of existing tennis court and 2 no. timber sheds, erection of two detached 4 bedroom chalet style dwellings, to use existing drive, with double garages and new turning head at Marshall's Place, Amber Lane, Chart Sutton, Maidstone, Kent, ME17 3SE in accordance with the terms of the application MA/19/502408/FULL, dated 3 May 2019 and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. Subject to a minor grammatical alteration, the description of development used in the heading and the decision above has been taken from the application form and is consistent with that which has been used by the Council. However, on visiting the site it was apparent that the site has been cleared and no timber sheds or tennis court were present. I have determined the appeal on that basis.

Main Issue

3. The main issue is whether the site is a suitable location for residential development having particular regard to the effect on the character and appearance of the site and the surrounding area and the specific circumstances of the site.

Reasons

4. The appeal site is located outside the settlement boundaries that are identified within the Maidstone Borough Local Plan 2017 (The MBLP). Policy SP17 of the MBLP states that development proposals will not be permitted in such countryside locations unless they accord with other policies of the MBLP and do not result in harm to the character and appearance of the area. The supporting text of Policy SP17 indicates that the policy is seeking to conserve and protect the intrinsic character of the countryside for its own sake and ensure the retention of the separation between scattered villages. The proposal would involve the erection of

two dwellings and garages at the appeal site and I have not been made aware of any policies that would enable such a development to occur at this location, as such, the development is contrary to Policy SP17 of MBLP.

5. The site is located at an established area of built development at Chart Sutton and is, therefore, not isolated. Moreover, whilst interested parties have identified that there is no longer a public house at Chart Sutton, the site is within reasonably close proximity to a shop/post office and a bus route. Accordingly, the site represents a suitable location for development in terms of access to services and facilities.
6. The evidence before me indicates that a similar conclusion was reached in respect of an extant planning permission¹ which would enable the erection of a single dwelling at the site. I have no basis to conclude that the previously approved development would not be undertaken if this appeal were not allowed. Moreover, I have not been made aware of any unusual considerations that were applicable to that proposal which are not applicable now. Consequently, whilst it was only for one dwelling, I afford that permission significant weight insofar as it indicates that development is likely to occur at the site.
7. The part of Amber Lane that includes the appeal site features a group of large detached dwellings at one side that sit on deep plots, with the dwellings being set back from the road and arranged in a loosely linear manner. This arrangement of built form and the presence of trees gives this stretch of Amber Lane a verdant and spacious character that is a variation from the more intensive residential areas that exist elsewhere along Amber Lane and within the nearby residential streets of Laxton Drive and Cobfields. The majority of the appeal site consists of cleared land that is located at the rear of the dwellings of Longbourne and Marshalls Place, the latter of which is a Grade II listed building. Substantial vegetation exists at the other boundaries of the site with the dwellings of Laxton Drive, fields and sporadic built form beyond. An additional section of the appeal site leads between Marshalls Place and Amber Place, thereby providing a vehicle access to Amber Lane.
8. The proposed dwellings and garages would be visible from the rear of neighbouring properties, with fleeting views of those buildings also being possible from Amber Lane, particularly at those times of the year when the intervening vegetation is thinner and provides less mitigation. However, due to the proposed buildings being positioned distant from the public domain and the screening effect of the existing built form and vegetation, the effect of the development would be limited and localised. Whilst the dwellings would have a substantial footprint, from where they would be seen, the scale and appearance of the proposed built form would be suitably sympathetic to the other dwellings within the vicinity of the site and compatible with the context of the area. In this regard, I recognise that the dwellings would be of similar design as the dwelling for which planning permission has been granted at the site and would be accessed in the same way.
9. The development would include a spacious courtyard to the front of the dwellings and gaps would be provided around the proposed buildings. Therefore, having regard to the size of the neighbouring dwellings, the presence of other buildings at the rear of Marshalls Place and the manner in which they are used, the proposed built form would not appear cramped at the site or result in the site being developed to an extent that would be discordant with the surrounding area. In this regard, the sense of spaciousness and the verdant character of Amber Lane would not be substantially altered by the proposed development.

¹ 19/502408/FUL

10. Although the development would result in the introduction of built form at the rear of the existing dwellings, the built form at the site would not extend further from Amber Lane than the built form within the nearby residential streets of Laxton Drive and Cobfields. Whilst those streets are of a markedly different character and viewed in a different context to the appeal site, the presence of those streets substantially reduces the extent to which the proposal would represent a variation from the established pattern of development within the locality. The prevailing character would be altered by the introduction of a single dwelling under the terms of the previous permission and, whilst the amount of built form would increase, the introduction of two dwellings rather than one would not alter the pattern of development within the locality in such a way that would make the development out of keeping within its context or harmful to the character of the area.
11. The proposed development would be a comparable distance to all other buildings and settlements as the existing built form of Chart Sutton. Therefore, the proposal would not cause coalescence in such a way that it would be perceptible or detract from the sense of separation from other settlements. Moreover, as the site is not isolated or in a location where the erection and occupation of two dwellings would be incongruous with the locality, the proposed development would not bring about a change to the overall character of the area in such a way that would detract from Chart Sutton or its rural surroundings.
12. As the Council is able to demonstrate an adequate supply of housing land the approach set out at paragraph 11d) of the National Planning Policy Framework (The Framework) is not applicable. However, The Framework does not restrict the provision of housing in excess of identified targets, provides support for the boosting of the supply of homes and does not restrict development in the countryside in the same way as Policy SP17. Moreover, paragraph 78 advises that housing in rural areas should be located where it will enhance or maintain the vitality of rural communities and, in this regard, it is likely that future occupiers would use the local services and facilities at Chart Sutton and within other nearby settlements. Moreover, the proposal would represent the more efficient use of land than the previous permission, which is supported by Policy DM12 of the MBLP and Section 11 of The Framework, without causing harm to the character and appearance of the site or the surrounding area.
13. Whilst the proposal to erect dwellings in the countryside would conflict with Policy SP17 of the MBLP and be contrary to the development plan in that respect, the avoidance of coalescence or harm to the intrinsic character and beauty of the countryside leads me to conclude that the proposal does not undermine the intention of that policy or the similar aims of Policy SS1 of the MBLP. I afford significant weight to the absence of harm in these respects and, in combination with the other factors set out above, including The Framework, this leads me to conclude that the conflict with the development plan is outweighed by other considerations.
14. Accordingly, for the reasons set out above, the site is a suitable location for residential development having particular regard to the effect on the character and appearance of the site and the surrounding area and the specific circumstances of the site. In this regard, the proposal would accord with Policies DM1 and DM30 of the MBLP which require that development is of high quality design, maintains or enhances local distinctiveness, is appropriately mitigated in terms of its effect on the character and appearance of the landscape and responds positively to the local area in terms of scale, height, materials and site coverage. The proposal would also accord with those parts of The Framework which, in addition to the aims set out above, requires development to be sympathetic to local character.

Other Matters

15. The proposed dwellings would cause an increase in the amount of activity at the site, including additional vehicle movements in close proximity to the side elevation and garden of Amber Place. Although the application was not refused for this reason, the Council and neighbouring residents have both raised objections in this respect. Whilst moving vehicles would pass in close proximity to Amber Place and may well be heard by the occupiers of that dwelling, as the level of activity arising from the occupation of two dwellings would be limited and the parking and turning areas would be distant from the neighbouring dwellings, I do not find that the additional activity and traffic would have a significant or unacceptable effect on the living conditions of neighbouring residents. Moreover, I have no basis to conclude that the general activity at the site arising from the occupation of the dwellings would be incompatible with the existing residential properties.
16. Furthermore, due to the positioning, scale and orientation of the dwellings, even though they would have a large footprint and come closer to the neighbouring dwellings than the previously approved dwelling, the pair of dwellings would not cause an unacceptable loss of light, privacy or outlook to an extent that would unacceptably undermine the living conditions of neighbouring residents. Consequently, the proposal would accord with the aims of Policies DM1 and DM11 of the MBLP which together require that the living conditions of neighbouring residents are respected and that development does not have a significant effect in terms of noise or loss of light, privacy or outlook.
17. As the proposal would involve development in close proximity to Marshalls Place and on land that is indicated to be within the same ownership, I have had special regard to the desirability of preserving or enhancing the setting of the listed building, the significance of which appears to be derived from its age and external appearance and detailing that has evolved over time. As the proposed dwellings would be positioned a substantial distance from the listed building, with outbuildings and means of enclosure in the intervening space, the listed building would retain its prominence within the public domain and its historic features would be unaffected by the presence of additional built form to the rear. Therefore, the setting of the listed building would be preserved.
18. Although it has been indicated that the Council's pre-application advice was not supportive of the erection of two dwellings at this site and this pre-dated the granting of planning permission for a single dwelling at the site, that advice is not binding and does not lead me to reach a different conclusion in respect of the proposed development.

Conclusion and Conditions

19. In addition to a condition relating to the time period for the commencement of development, in the interests of clarity I have imposed a condition requiring the development to be undertaken in accordance with the approved plans. A pre-commencement condition is also imposed in order to protect any archaeological interests that may exist at the site. If present, requiring details to be agreed at a later time would not avoid harm being caused to those heritage interests.
20. As providing net gains for biodiversity is encouraged by The Framework and Policy DM1 of the MBLP, a condition is imposed to require details of ecological enhancements to be submitted, agreed and implemented. Furthermore, in order to ensure that the lighting of the site does not cause ecological harm, a condition is imposed to require details of any proposed lighting to be submitted and agreed prior to its installation.

21. In the interests of ensuring that the development is sympathetic to the character and appearance of the locality, conditions are also imposed to secure the agreement and implementation of a landscaping scheme and the agreement of details relating to the materials proposed to be used in the construction of the development. Furthermore, a condition requiring the provision of electric vehicle charging points is included in the interests of promoting sustainable modes of transport in accordance with paragraph 110 of The Framework.
22. For the reasons given above and subject to the imposition of the conditions included within the schedule below, I conclude that the appeal should be allowed.

Ian Harrison

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than 3 years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, 2465/1, 2018-450-(P) 110, 2018-450-(P) 110 (Plot 1 - Handed) and 2018-450-(P) 111.
3. No development associated with the construction of the buildings hereby approved shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed, and items of interest and finds are recorded. The watching brief shall be implemented in accordance with a written programme and specification that shall have first been submitted to and approved in writing by the Local Planning Authority
4. Prior to their use in the development hereby approved, details of all materials to be used in the construction of the external surfaces of the buildings hereby permitted shall have been submitted to and approved in writing by the local planning authority. Subsequently, the development shall be carried out in accordance with the approved details.
5. Prior to the first occupation of either of the dwellings hereby approved, details of both hard and soft landscape works shall have been submitted to and approved in writing by the local planning authority. These details shall include boundary treatments, hard surfacing materials and details of any planting, seeding or turfing. All hard landscape works shall be implemented prior to the first occupation of either of the dwellings hereby approved and all planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner. Any trees or plants which, within a period of 5 years from the completion of the development, die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. Prior to the first occupation of either of the dwellings hereby approved, written details of a scheme of ecological enhancements to the site as part of the development, a timescale for the implementation of that scheme and details of subsequent management, based on the recommendations incorporated in the

submitted Corylus Ecology Extended Phase 1 Habitat Survey (March 2018) and including the installation of bird boxes on retained trees at the site boundaries and provision of a brash pile or a hedgehog house at the edge of the site, shall have been submitted to and approved in writing by the Local Planning Authority. The ecological enhancements shall be implemented in accordance with the approved details and the approved timetable and managed in accordance with the approved details thereafter.

7. No dwelling within the development hereby approved shall be occupied until an accessible electric vehicle rapid charging point has been installed within the site in accordance with details which shall have first been submitted to and approved in writing by the Local Planning Authority. The electric vehicle charging point shall be retained and maintained within the site thereafter.
8. No external lighting shall be installed as part of the development hereby approved without details of the lighting having first been submitted to and approved in writing by the Local Planning Authority. Any external lighting shall be based on the principles set out in paragraph 4.4.2 of the submitted Corylus Ecology Extended Phase 1 Habitat Survey (March 2018). The external lighting shall be installed in accordance with the details approved and shall be retained and maintained as such thereafter.