



Appeal Decision

Site visit made on 9 October 2020

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 November 2020

Appeal Ref: APP/U2235/W/20/3248627

Teiseside Nurseries, Laddingford, MAIDSTONE, Kent, ME18 6BP

- 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 Mr & Mrs R Edmonds against the decision of Maidstone Borough Council.
 - The application Ref 19/505434/OUT, dated 29 October 2019, was refused by notice dated 2 January 2020.
 - The development proposed is described as the demolition of existing commercial building and the erection of a 2-storey self-build dwelling (Access being sought).
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing commercial building and erection of a 2-storey self-build dwelling at Teiseside Nurseries, Laddingford, MAIDSTONE, Kent, ME18 6BP in accordance with the terms of the application, Ref 19/505434/OUT, dated 29 October 2019, and the plans submitted with it, subject to the following conditions:
 - 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place, and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
 - 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: 2200/003/A.
 - 5) Prior to any construction of the dwelling above damp-proof course level, written details and samples of the materials to be used in the construction of the external surfaces of the buildings and hard-surfacing shall be submitted to and approved in writing by the local planning authority. The development shall be constructed using the approved materials and maintained as such thereafter.

- 6) Prior to any construction of the dwelling above damp-proof course level, details of a scheme of landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation, shall be submitted to and approved in writing by the local planning authority. The landscape scheme shall be designed using the principles established in the Council's adopted Landscape Character Assessment 2012. The landscaping of the site shall be carried out in accordance with the approved details over the period specified.
- 7) The approved landscaping scheme shall be in place at the end of the first planting and seeding season following completion of the dwelling. 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.
- 8) No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are first submitted to and approved in writing by the local planning authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors, and measures to ensure that foraging, commuting, and/or nesting bats are not adversely impacted upon (in accordance with the recommendations within the Bats and artificial lighting in the UK document produced by the Bat Conservation Trust and Institution of Lighting Professionals). The development shall thereafter be carried out in accordance with the approved details and maintained as such thereafter.
- 9) Prior to any construction of the dwelling above damp-proof course level, an ecological enhancement plan (EEP) on the site shall be submitted to and approved in writing by the local planning authority. The EEP shall include the enhancement of biodiversity through integrated methods into the design and appearance of the dwelling by means such as swift bricks, bat tubes or bricks; and it shall show how the ecological enhancements detailed within the Briefing Note, Ecological Assessment (Ecology Solutions: Feb 2020) will be incorporated into the site and where they will be located. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.
- 10) The development hereby permitted shall be carried out in accordance with the submitted Flood Risk Assessment undertaken by Evans and Langford (Ref: 13525 - Sept 2016). Subsequently, finished floor levels shall be set no lower than 13.55m above Ordnance Datum (AOD) and there shall be no sleeping accommodation on the ground level.
- 11) Prior to the occupation of the building hereby permitted, a minimum of one operational electric vehicle charging point for low-emission plug-in vehicles shall be installed and shall thereafter be retained and maintained for that purpose.

- 12) If during construction/demolition works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not re-commence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology. Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site. If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

Application for costs

2. An application for costs was made by Mr and Mrs R Edmonds against Maidstone Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. This is an outline application with all matters other than access reserved for later approval.
4. The Council's decision notice has three reasons for refusal. With regard to reason No 3, which relates to the lack of an ecological survey, it would appear that the appellant has subsequently submitted a survey that has been reviewed by the Council's Biodiversity Officer. On the basis of this, and subject to the imposition of recommended conditions, the local planning authority does not wish to rely on this reason for refusal.

Main Issues

5. In the light of the above, the main issues in this case are:
 - The sustainability of the proposed development with regard to accessibility to appropriate services and facilities, and
 - The effect of the proposed house on the character and appearance of the area around Laddingford.

Reasons

6. The appeal site is part of a much larger plot of land that was once used as a nursery business. The site itself is roughly rectangular in shape and is currently occupied by a range of low-level buildings in largely poor condition, including industrial containers, that were apparently used in connection with the nursery business. There is a single polytunnel in existence close to the low-level buildings. The site also includes a driveway that connects the main body of the site to Lees Road, which runs through the village of Laddingford.

7. To the west of the site, also on former nursery land there are three 'shepherds huts' which form part of a small complex of holiday homes currently in development. The development also includes some outdoor facilities serving the holiday homes. To the east of the appeal site, again on land apparently once associated with the nursery business, there is an extensive grassed area with some trees. To the north of the site is a residential property known as Teiseside. This is a detached house in extensive grounds with a long driveway to Lees Road. This driveway meets Lees Road adjacent to the access point for the appeal site. Teiseside itself is set well back from the road and further west within the plot than would be the proposed house on its site.
8. To the south of the site the land is generally more open, and it includes adjacent land to the rear of the Chequers Inn and other properties towards the centre of Laddingford. Laddingford is a small village with a school, a public house and a church. There are bus services running through the village connecting it to nearby villages as well as to the larger settlements of Maidstone and Goudhurst. The bulk of the housing in the village would appear to be towards the northern end, to the east of Lees Road and opposite the site of the former nursery.

Sustainability issues

9. The Council agrees that the proposal site is not considered to be isolated, in terms of the revised National Planning Policy Framework (the Framework). I concur with that view. The proposed dwelling would be within easy walking distance of a school, church and public house. The Council has provided a bus timetable relating to bus routes/times that serve Laddingford. The Council contends that the nearest day-to-day services and facilities would be in Yalding some 1.5 miles away and that the bus service is infrequent, such that there would be a heavy reliance by occupiers of the proposed house on car usage.
10. From the bus timetables provided, it would appear that three bus routes (Nos 23, 23A and 25) run between Laddingford and the nearby Yalding at regular intervals through the day on weekdays, and that some of these continue to Maidstone or Goudhurst. Frequency varies at different times of the day, but in general I am satisfied that the bus service would be adequate for occupiers of the proposed house to reach and use local services and facilities in Yalding or beyond on a daily basis during the week.
11. Policy SP17 of the Maidstone Borough Local Plan (LP) indicates that development proposals in the countryside will not be permitted unless they accord with other policies in the plan and they will not result in harm to the character and appearance of the area. Policy SS1 of the LP indicates that protection will be given to the rural character of the borough avoiding coalescence between settlements. In this case, I do not consider that the appeal site is in an isolated position, nor do I consider that its accessibility to additional local services and facilities in Yalding and beyond by public transport is inadequate, given the existence of regular bus services.
12. On this issue, therefore, I find that the proposal would not conflict with Policies SS1 or SP17 of the LP. Moreover, given that the site is not an isolated home in the countryside, it would not conflict with guidance on rural housing in the Framework.

Character and appearance

13. The Council contends that the proposed development would 'erode the openness of the site and would consolidate sporadic and urbanising development in the area. This would cause unacceptable harm to the character and appearance of the countryside hereabouts and would constitute poor design'. The Council also contends that new residential development in the location shown, whatever its scale, layout, or appearance, would introduce a new dwelling, with its garden and associated domestic paraphernalia on what is currently agricultural land. This sprawl of domestic development into undeveloped countryside, would go against the general pattern of development in the area; and this consolidation of development would appear as an incongruous and intrusive form of development.
14. The appeal site is bounded to the north by a residential property (Teiseside) that is set well back from the road on an elongated site. The appeal proposal would be similarly set back, and in close proximity to the neighbouring dwelling. The Council contends that Teiseside is well screened by landscaping. Given the scale of the appeal site, I am satisfied that there is room for adequate landscaping at the proposed site to minimise its visual impact, and that this could be controlled by condition. In any case, the house would be seen in the context of trees and planting to the front and rear, as well as elements of the holiday home complex that would remain visible. It would not be an isolated, prominent or incongruous feature.
15. In addition to Teiseside to the north, there are residential properties and a public house to the south east on Lees Road, and there are a number of dwellings on the east side of Lees Road opposite to the former nursery site and extending beyond it to the north. In this context, I do not consider that the proposed dwelling would appear as sporadic or an urbanising development.
16. The Council has referred to the appeal site as agricultural land. However, there is currently little evidence, visual or otherwise, that this is now agricultural land. The land to the east and south of the site is effectively set as a managed grassed area with sporadic trees, and the area to the west is a holiday home complex. Moreover, there is some evidence before me that the appeal site should be considered as previously developed land. Whether or not that is the case, the site is currently occupied by somewhat unattractive structures in generally poor condition, and the proposed house, the design of which can be controlled at reserved matters stage, would represent a visual improvement.
17. In addition to Policies SS1 and SP17 of the LP, referred to above, the Council also makes note of Policies DM1 and DM30 of the LP. Policy DM1 relates to general principles of design, while Policy DM30 indicates that outside of settlement boundaries defined on the policies map, proposals which would create high quality design, satisfy the requirements of other policies in this plan, and meet certain criteria will be permitted. One of the specified criteria states that 'the type, siting, materials and design, mass and scale of development and the level of activity would maintain, or where possible, enhance local distinctiveness, including landscape features'. In this case, I consider that the location and scale of the appeal site would allow for the development of a dwelling of high quality design that would include the maintenance or enhancement of landscape features appropriate to the village. Such considerations can be secured at the reserved matters stage.

18. In conclusion on this issue, I consider that the proposed dwelling would effectively be within the general boundaries of development in the village of Laddingford. On this basis, and for my reasons given above, I find that it would not consolidate sporadic or urbanising development in the countryside, nor would it appear incongruous or intrusive in its context. It would not conflict with Policies SS1, SP17, DM1 or DM30 of the LP.

Other Matters

19. The appeal site lies in flood risk zones 2 and 3. The Framework seeks to steer new development to areas at the lowest probability of flooding and, on assessing the Flood Risk Assessment (FRA), it has been demonstrated that the dwelling could be sited on higher land that is at a lower risk of flooding within the proposal site (Flood Zone 2). It includes land that represents the highest point of the former nursery area. On this basis, the Environment Agency are satisfied that planning permission could be granted subject to a suitable condition being imposed to ensure the development was carried out in accordance with the submitted FRA.
20. There has been extensive correspondence between the appellant and the Council regarding a draft copy of a Unilateral Undertaking prepared for the appellant relating to the proposed self-build nature of the dwelling on the appeal site. The issue currently in dispute between the parties would appear to revolve chiefly around original copies and where they are held. I am not aware of any unreconcilable disagreement on key details of the Undertaking, and it would appear that the Council has a certified copy of it, but not an original. In this instance, the existence or otherwise of an undertaking has not, in itself, influenced my decision on the main issues. I have not accorded the obligation any weight and it has not been a reason for granting planning permission.

Conditions

21. I have attached a condition relating to plans because it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I have attached further conditions for the following reasons:
- Conditions 5 – 7 have been imposed in order to safeguard the character and appearance of the area around Laddingford.
 - Conditions 8 and 9 have been imposed in order to safeguard the character and appearance of the area around Laddingford and also in the interests of ecological enhancement and biodiversity.
 - Condition 10 has been imposed to reduce the risk of flooding to the proposed development and future occupants, as well as to provide a safe access and egress for this development.
 - Condition 11 has been imposed to promote reduction of CO2 emissions through use of low emissions vehicles.
 - Condition 12 has been imposed to ensure that any residual contamination that may be found on the site will be dealt with in an appropriate manner.

The Council has also suggested a condition relating to the submission of a Construction Management Plan in order to safeguard protected species.

However, in this case, the Ecology Report submitted by the appellant indicates that the site itself, as opposed to the wider surrounding land, is of limited habitat value for protected species and I am satisfied that conditions 8 and 9, which relate to issues affecting foraging, commuting and nesting bats, and to the submission of an Ecological Enhancement Plan, will effectively meet the requirement to protect species that may be present in the vicinity.

J D Westbrook

INSPECTOR