



Appeal Decision

Site visit made on 3 November 2020

an Inspector appointed by the Secretary of State

Decision date: 18 November 2020

Appeal Ref: APP/U2235/W/20/3252041

Land adjoining 12 Lower Fant Road, Maidstone ME16 8EA

- 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 J. King (EKL Builders Ltd.) against the decision of Maidstone Borough Council.
 - The application Ref 19/502289/FULL, dated 2 May 2019, was refused by notice dated 12 November 2019.
 - The development proposed is the construction of 2, 4 bedroom semi-detached houses, with access road, car parking and bin storage facilities.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 2, 4 bedroom semi-detached houses, with access road, car parking and bin storage facilities at land adjoining 12 Lower Fant Road, Maidstone ME16 8EA in accordance with the terms of the application, Ref 19/502289/FULL, dated 2 May 2019, subject to the conditions set out in the schedule at the end of this decision.

Main Issues

2. The main issues are the effect of the proposal on the character and appearance of the area; and whether biodiversity interests would be adequately protected.

Reasons

3. The appeal site is located to the east of Lower Fant Road at the point where it turns through 90 degrees, and to the west of Bower Lane. It comprises a roughly rectangular shaped area of land which slopes down steeply from north to south and at the time of my site visit was largely overgrown. There are several mature trees on the site, some of which are protected by a Tree Preservation Order¹. The site is approached via an unmade access which also leads to No 66 Bower Lane. To the south of that property is a listed building, No 10 Bower Lodge, and beyond that a terrace of town houses. Adjoining the western boundary of the site is the rear garden of No 12 Lower Fant Road.
4. In 2015 planning permission was granted for a large detached dwelling on the site (the 2015 permission)² and the current proposal occupies the same siting as the previously approved scheme. A subsequent application for two dwellings was submitted in 2018³ but was later withdrawn following discussions

¹ Tree Preservation Order No 11 2006.

² Application Reference 15/503687/FULL

³ Application reference 18/505161/FULL

with officers. However, with that application an ecological appraisal of the site was submitted dated 16 July 2018. In assessing the current proposal, the Council considered it acceptable in all respects other than ecological considerations. In that regard, the officer report referred to an ecological survey submitted in 2015, but not that submitted with the withdrawn application. Officers were not satisfied that biodiversity interests had been sufficiently taking into account and permission was refused for that single reason.

5. The 2018 ecological survey identified a risk of reptiles being present and subsequently a reptile survey was carried out in April 2020. This demonstrated that no evidence of reptiles was found on the site and the results of the survey were submitted with the appeal papers. The Council has since accepted the results of both the 2018 ecological survey and the 2020 reptile survey and in an email dated 30 July 2020 has now indicated that it wishes to withdraw its objections and no longer wishes to contest the appeal. Notwithstanding the Council's latest position, the merits of the proposal or otherwise, still fall to me for determination.
6. Having regard to the above, I have carefully assessed the proposal on site having considered the original officer report and the appellants grounds of appeal.
7. The 2015 permission is a significant material consideration to this appeal and I note that whilst the siting is the same, the overall height of the proposed building would be less than that already approved. In that context, I agree with both the Council's and the appellants assessment for the current proposal in terms of such matters as there being no adverse impact upon the character of the area, there would be adequate spacing with adjoining properties, overlooking would be minimised and there would be no adverse impact upon trees covered by the Tree Preservation Order, subject to appropriate safeguarding conditions. Similarly, from a highways point of view, I note that the proposal would comply with adopted parking standards, that traffic generation would not be significant and that vehicle speeds using the access and the junction would be low. The Highway Authority has raised no objections in that respect and I see no reason to come to a different conclusion.
8. From an ecological point of view, I have considered both the 2018 ecological survey and the 2020 reptile survey and see no reason to question the conclusions. I note that the Council's advisers on biodiversity issues also agreed with the conclusions. I also agree with the Council that a condition relating to a Tree Protection Plan would adequately safeguard any concerns regarding those trees which are to be retained.
9. Given the proximity of the nearby listed building I am required to have special regard to the desirability of preserving the building or its setting. In that respect I agree with the Council that the significance of the asset is primarily that of its architectural form and historic value. Given that these would be unaffected and that the location of the new development would be over 20 metres away and with a ridge height lower than approved, I am satisfied that the setting of the building would be preserved.
10. Finally, in terms of local concerns about noise and practical difficulties arising from construction I agree that it would be challenging on a site such as this. However, I am satisfied that a Construction Management Plan could

satisfactorily address such issues which could be secured through an appropriate condition.

11. Having regard to the above, the development would comply with Policies DM1, DM3, DM4, DM12, DM23, SP18, SS1 and SP1 of the Maidstone Borough Local Plan 2017 for the reasons given.
12. In terms of conditions suggested by the Council, those relating to the development to be built in accordance with the approved plans, details of materials, refuse provision, adherence to the submitted arboricultural report and landscaping, are all necessary in the interests of certainty and visual amenity. A condition for the provision of electric charging points is necessary in the interests of reducing carbon emissions. Other conditions which I consider necessary relate to the need for a root protection plan to safeguard trees to be retained, details of obscure glazing and a construction management plan to protect residential amenity, and a condition to provide and retain parking in order to ensure that it is permanently available. The pre commencement of development conditions have been agreed by the appellants.
13. Accordingly, the appeal is allowed and planning permission granted.

Kim Bennett

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: 4457-PD-01A; 4457-PD-02A; 4457-PD-03A and 4457-PD-04A
- 3) The development shall not commence above slab level until written details and samples of the materials to be used in the construction of the external surfaces of the new build development and all other hard surfaces have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and thereafter maintained in that form.
- 4) The development shall not commence above slab level until details of satisfactory facilities for the storage of refuse on the site and a suitable refuse collection point have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided before the first occupation of the building and maintained thereafter.
- 5) The development shall be carried out in strict accordance with Straight Up Trees Ltd.'s Arboricultural Report submitted with the application.

- 6) The development shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority. The scheme shall show both the landscaping of the amenity and garden area and measures to improve the appearance and setting of the new building with the introduction of planting to the front of the building and include a planting specification, a programme of implementation and a 5 year management plan.
- 7) The approved landscaping shall be in place at the end of the first planting and seeding season following completion of the dwellings. 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) Prior to first occupation of the dwellings one electric vehicle charging point per dwelling shall have been installed for the benefit of the occupiers of the dwellings with the charging point thereafter retained for that purpose.
- 9) The development shall not commence above slab level until details for a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the development by means such as swift bricks, bat tube or other nesting boxes. The development shall be implemented in accordance with the approved details and all features shall be maintained thereafter.
- 10) The development shall not commence above slab level until details of any obscure glazing to windows in the east or west elevations of the two dwellings hereby approved have been submitted to and approved in writing by the local planning authority. Any such glazing which is approved shall thereafter be retained in that form.
- 11) The parking shown on the approved plans shall be laid out prior to the first occupation of either of the dwellings hereby approved and shall thereafter be retained for that use. No permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking, and re-enacting that Order with or without modification) shall be carried out on that area of land.
- 12) Prior to the commencement of any development on the site, details of a root protection plan for those trees that are to be retained, shall be submitted to and approved in writing by the local planning authority. The approved plan shall be fully complied with throughout the construction period.
- 13) Prior to the commencement of any development on the site, details of a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The said plan shall include details of: hours of construction, machine operated plant, means of loading and unloading, storage of materials/temporary offices on site and measures to control the emission of dirt and noise. The approved plan shall be fully complied with throughout the construction period.