



Appeal Decision

Site Visit made on 20 April 2021

by G Pannell Bsc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th May 2021

Appeal Ref: APP/U2235/W/20/3261853

Land at 3 Hockers Lane, Detling, ME14 3JP

- 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 Stymest against the decision of Maidstone Borough Council.
 - The application Ref 20/501972/FULL, dated 3 June 2020, was refused by notice dated 25 August 2020.
 - The development proposed is the demolition of an existing large garage/store and for the erection of a four-bedroom chalet bungalow with garage and associated parking and access on land between no 1 Hockers Lane and no 1b Hockers Lane.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing large garage/store and for the erection of a four-bedroom chalet bungalow with garage and associated parking and access on land between no 1 Hockers Lane and no 1b Hockers Lane at Land at 3 Hockers Lane, Detling, ME14 3JP in accordance with the terms of the application, Ref 20/501972/FULL, dated 3 June 2020, and the plans submitted with it, subject to the attached schedule of conditions.

Main Issues

2. The main issues are the effect of the development on:
 - the character and appearance of the area, having particular regard to the location of the site within the Kent Downs Area of Outstanding Beauty; and
 - highway safety.

Reasons

Character and appearance

3. The site is located off Hockers Lane, a predominately residential area, comprising the rear garden of 3 Hockers Lane and the existing garage. The area is characterised by a range of dwelling types. The land to the rear of no 3 has been subdivided into 3 plots and planning permission has been granted for dwellings on the other 2 plots.
4. The size of the plot is reasonable given the scale of the dwelling proposed and would replace an existing garage. The proposed dwelling would have its frontage and vehicular access onto the access road which runs along the side boundary of 3 Hockers Lane and also provides access to the other development located to the rear.

5. The appeal site is between the two recently approved dwellings which at the time of my visit were under construction. The appellant has submitted an additional drawing which shows the layout of the site in relation to the previously approved dwellings. This drawing did not form part of the original submission to the Council, but given the dwellings are under construction I have had regard to this plan as part of my considerations. It demonstrates how the appeal proposal would relate to the previously approved dwellings. It also accords with the sketch provided by the Council.
6. The plot is of sufficient size to provide an appropriate level of parking and amenity space and the proposed dwelling would not appear cramped within the plot with spacing available to the side and rear. The development would continue the built form from Hockers Lane, including that of the host property whose side boundary extends along the access road. The proposed dwelling, by virtue of its size and scale, reflects the dwellings within the locality and would contribute positively to the character and appearance of the area.
7. It has been put to me that the site has the character of a semi rural location, however the site is located within an existing row of development, which continues beyond the appeal site. In addition, directly adjacent to the site is another backland development which extends to a similar depth. This, in combination, with the siting of the appeal site within the middle of housing, does not lead me to conclude that the site is characterised as being part of a semi rural location, nor does it contribute to a transition between a settlement with countryside beyond. Therefore, I have identified no harm to the character and appearance of the area.
8. The village of Detling including the appeal site, lies within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the National Planning Policy Framework places great weight on protecting and enhancing landscape beauty in AONB's which have the highest status of protection in relation to these issues.
9. I have been referred to the Kent Downs AONB Management Plan (MP), which I understand has been adopted by the Council, but it does not form part of the statutory Development Plan. This plan echoes the requirements of the National Planning Framework (the Framework), in seeking to ensure that AONBs are conserved and enhanced. Policy SD2 of the MP requires the local character, qualities and distinctiveness of the AONB to be conserved and enhanced in the design, scale, setting and materials of new development.
10. However, there would be no significant change in landscape terms from the proposed development in longer views, taking into account the site is already developed with a large garage/storage building. There would be limited visual impacts for those walking along the footpath which runs parallel to the appeal site, noting that the footpath is already overlooked by houses on the other side.
11. The existing garage/storage building as a result of other permitted development has become physically separated from the host dwelling. Therefore, its replacement with the proposed dwelling would form part of the wider redevelopment of the site, in a cohesive manner and as a result would lead to a limited enhancement of the AONB.

12. For the reasons set out above I consider that the development would accord with policy SD2 of the MP and the requirements of policy 172 of the Framework.
13. Policy SP17 of the Maidstone Borough Local Plan 2017 (LP) permits development within the countryside where it accords with other policies within the plan and does not result in harm to the character and appearance of the area. The proposal accords with policy DM1 of the LP in that the development would meet the principles of good design. The Council has also referred to policy DM11 of the LP, which deals with residential garden land within defined boundaries. Whilst this is not directly relevant to the appeal proposal which is outside of any defined boundary, I am satisfied that the proposal would also comply with the guidance set out within this policy and it does not specifically exclude development within the Countryside. Therefore, I have not identified any conflict with policy SP17 in this regard.
14. I therefore conclude that the proposed development would not harm the character and appearance of the area, or the landscape quality and setting of the AONB. The development would accord with policies SP17, DM1 and DM11 of the LP which set out the principles of good design and permits development of residential garden land where the higher density would not result in significant harm to the character and appearance of the area and requires great weight to be given to the conservation and enhancement of the Kent Downs AONB.

Highway Safety

15. The access road leading to the appeal site is of limited width and is bordered on one side by a public right of way, which is currently separated from the access by a chain link fence. As a result of its limited width and lack of dedicated footpath for occupiers of the dwelling, the lane would be a shared space between pedestrians, cyclists and vehicles.
16. However, the access currently serves two dwellings and provides access to the garage directly to the rear of 3 Hockers Lane and the garage located on the appeal site. It has not been demonstrated within the evidence before me that the proposal would result in any significant increase in the use of the access. Nor that the proposal would result in an adverse effect on highway safety.
17. The Council have confirmed that the inclusion of formal passing bays along the access road would be acceptable and overcome the concerns regarding the suitability of the access. These would also provide a form of refuge for pedestrians. At the time of my visit the passing bays were already partially constructed and from the evidence before me they have been granted as a minor material amendment application.
18. Therefore, I am satisfied that the required passing bays can be provided on land within the appellant's control and therefore secured by condition to ensure they remain available for the lifetime of the proposed development. In addition, the appellant has indicated within their appeal statement that they would be willing to accept such a condition.
19. In conclusion, with the inclusion of the passing bays the access would be suitable for the level of development proposed and would not be detrimental to highway or pedestrian safety. The development would therefore accord with

policy DM1 and DM11 of the LP which sets out the principles of good design and requires development within residential gardens to provide access of an appropriate standard.

Other Matters

20. The Council have raised errors within the submitted planning statement, these appear to relate to the numbering used to describe the existing and permitted development. However, these discrepancies have not affected my consideration of the appeal as it was possible from the submitted plans and my site visit to confirm the position of the proposed dwelling in relation to the existing built development, including that under construction.
21. As part of the appeal the appellant has indicated they have purchased additional land to provide an enlarged garden. I have not considered this as part of this appeal as I consider that this change would materially alter the nature of the application and would prejudice the interests of interested parties¹
22. I have also taken into account the matters raised in the representations received including issues such as storage and collection of waste, the effect on existing landscaping, lack of public transport, overlooking, noise and disturbance, inadequate foul and surface water arrangements and light pollution.
23. However, the development would not cause an unacceptable loss of privacy or a material increase in noise and disturbance or light pollution in comparison to the existing situation. The site has adequate space for the storage of waste, and collection arrangements would be similar to those which exist for the other dwellings along the access road.
24. In respect of concerns regarding the potential effect on landscaping, this is adequately controlled by condition. Concern has also been raised relating to the capacity of the sewerage network and the lack of public transport, however there is no evidence before me that there would be harm in respect of these matters, and no objection has been raised by the Council.
25. Therefore, none of the matters raised provide a compelling reason why planning permission should not be granted.

Conditions

26. The Council has suggested 12 conditions. I have considered these in light of the Planning Practice Guide and the tests of the Framework and where necessary amended them for clarity. In addition to the standard implementation condition it is necessary, for the avoidance of doubt, to define the plans with which the scheme should accord.
27. In the interests of the character and appearance of the area a condition requiring the submission of samples of the materials, details of boundary treatment and proposed levels is necessary and reasonable. In order to provide enhanced biodiversity interest in the locality I have imposed a condition requiring details of wildlife enhancement measures.

¹ Annex M of the Procedural Guide Appeals – England advises that the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought.

28. In order to ensure an appropriate level of on-site parking provision for vehicles, I have imposed a condition requiring the parking area to be provided prior to occupation of the dwelling and retained for the life of the development. Furthermore, in order to support the government's objective of increasing sustainable development I have imposed a condition to ensure an electric charging point for vehicles is provided and that details of decentralised, renewable or low-carbon sources of energy are provided for the development.
29. I have imposed a condition to ensure the provision of appropriate passing places along the existing access track. Whilst the evidence before me indicates that these have been previously agreed as part of other applications, these details did not form part of the submitted plans and therefore in the interests of certainty that they would be delivered prior to the occupation of the permitted dwelling it is reasonable that these details are formally agreed.
30. I have not imposed a condition removing permitted development rights as the Planning Practice Guidance advises that conditions restricting the future use of permitted development rights "will rarely pass the test of necessity and should only be used in exceptional circumstances". I have not been provided with adequate justification to suggest that there are exceptional circumstances for such a restriction and therefore do not consider it is necessary in this instance.

Conclusion

31. For the reasons given I conclude that the appeal should succeed.

G Pannell

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: 2022A Plans and Elevations; 20/2028A Block Plan and 20/2029 Proposed Garage Plans.
- 3) No development above slab level shall take place until details of the materials to be used in the construction of the dwelling hereby permitted and the surfacing materials of driveways and parking areas have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 20/2028A for cars to be parked and for vehicles to turn and that space shall thereafter be kept available at all times for those purposes.
- 5) No dwelling shall be occupied until two passing places have been provided in accordance with details to be submitted and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details and thereafter be kept available at all times for those purposes.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 7) No development shall take place until a scheme (including a timetable for implementation) detailing decentralised and renewable or low carbon energy sources which are to be incorporated into the development shall have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented and thereafter retained in operation.
- 8) No dwelling shall be occupied until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 9) 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; and 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.
- 10) No dwelling shall be occupied until details of hard landscape works have been submitted to and approved in writing by the local planning authority. These details shall include means of enclosure and retaining structures and boundary treatments. The works shall be carried out in

accordance with the approved details before any part of the development is first occupied. The completed scheme shall be maintained in accordance with an approved scheme.

- 11) No dwelling shall be occupied until details of an electric vehicle charging point has been submitted to and approved in writing the local planning authority. These details shall include:

- Location
- Charging type (power output and charging speed)
- Any associated infrastructure
- Timetable for installation.

The installation shall be carried out in accordance with the approved details in accordance with the agreed timetable for installation and shall thereafter be maintained.

- 12) No development above slab level shall take place until details of the integral bird bricks and/or bat/bird boxes; insect bricks; gaps under boundary treatments, to be used during the construction of the dwelling hereby permitted, including the timing of delivery of each of these measures have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

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