



Appeal Decision

Site Visit made on 11 May 2021

by Stewart Glassar BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 May 2021

Appeal Ref: APP/U2235/W/20/3264265

The Former Mulberry Tree, Hermitage Lane, Boughton Monchelsea, Maidstone, Kent, ME17 4DA

- 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 S Naish (Mulberry Developments (Maidstone) Limited) against the decision of Maidstone Borough Council.
- The application Ref 20/501296/FUL, dated 12 March 2020, was refused by notice dated 1 June 2020.
- The development proposed is the erection of a detached dwelling.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the principle of the proposed development with specific regard to access to services; and the effect of the proposed development on the character and appearance of the area.

Reasons

Principle of Development

3. The appeal site is located adjacent to the former pub building, in the open countryside, outside of a defined settlement. In the interests of encouraging sustainable patterns of new development and access to services the Local Plan¹ generally seeks to avoid development in the open countryside and directs it to defined settlements. Policy SS1 of the Local Plan does set out certain justified exceptions to development in the open countryside, for example, agricultural developments or small-scale employment opportunities. The appeal scheme would not comply with any of the expressed exceptions.
4. There is some disagreement between the main parties as to the exact distances between the site and the villages of Boughton Monchelsea, Sutton Valance and Chart Sutton and their services. However, there seems to be general agreement that these villages would be roughly within a 10 minute car journey of the appeal site. The Council notes that Chart Sutton, which appears to be the closest to the appeal site, is designated in the Local Plan as countryside given its lack of services.
5. There is no evidence before me to suggest that the site is currently served by public transport or that there is any reasonable prospect of that happening. Whilst I accept that the distances involved would, in theory be walkable or

¹ Maidstone Borough Local Plan (2017)

cyclable, these routes would not be overly attractive to many people given the width of the lanes in places and the absence of segregated footpaths. A lack of street lighting would make such options particularly unattractive during the winter months. If a resident at the appeal site needed to access local services, the most likely mode of transport would, it seems to me, be by car. This is the least sustainable travel option.

6. I must therefore conclude that future occupants of the appeal site would be likely to rely on the use of the car with little usable or practical alternative such as public transport, walking/cycling etc. The principle of the proposed development with specific regard to access to services is therefore unacceptable in this open countryside location. As such, it conflicts with the requirements of Policy SS1 of the Local Plan, and the provisions of the Framework, which among other things, both seek to restrict development in the open countryside and protect it from inappropriate development that is inaccessible to local services through sustainable modes of transport.

Character and Appearance

7. The site is generally concealed from wider views owing to the topography of the area and the existing planting. However, it would be visible when passing the site and it would be exposed to some longer views when approaching from East Hall Hill. It is suggested that the landscaping scheme would prevent such wider views but there are insufficient landscaping details or any wider landscape assessment to fully substantiate that position.
8. The proposed building itself would comprise a two storey dwelling set at a slight angle to the former pub building. There does not appear to be any particular design rationale for how the building's design has evolved or which explains the choice of external materials. Good design involves taking account of the pattern and scale of the surrounding context and built form. There is little in the design and appearance of the proposed dwelling to suggest that has happened in this case.
9. Given the building's size, height, position and range of external materials it fails to demonstrate any sense of connection with the surrounding built form or its location. As a result, it will appear as an awkward juxtaposition to the former pub building and will have a jarring visual relationship with its surroundings that will harm the wider area.
10. Overall, I find that the proposal would result in built development, which along with the accompanying domestic use of the curtilage and the domestic paraphernalia that would ensue, would harm the character and appearance of the area, having regard to the design and appearance of the proposed dwelling. Accordingly, the proposal would be contrary to Policies SS1, SP17, DM1 and DM30 of the Local Plan, which amongst other things, and when read as a whole, seek to restrict development in the open countryside and so protect its character and appearance from unsympathetic development.

Other Matters

11. There is some debate in the evidence as to whether the appeal site is previously developed land. If I were to conclude that the site was previously developed land, I would need to consider the proposal under Policy DM5 of the Local Plan. In such circumstances, Part (2) would be applicable. As well as

requiring significant environmental improvements through such development, it also states that development should be accessible by sustainable transport modes.

12. The proposed redevelopment of the appeal site would necessarily involve the removal of the existing hardstanding. There is doubt as to whether there is any contamination and how extensive it may be. I have no detailed evidence of contamination before me. Regardless of this, it is adjacent to the parking area for the new residential units and set back from Hermitage Lane and the site access. Taking these factors into account I do not therefore consider its removal in itself to represent a significant environmental improvement, particularly as a significant proportion of it will be replaced with the footprint of a new building, car parking spaces and footpaths, patios etc.
13. The other measures proposed are not supported by any assessment as to what may be beneficial in terms of the wider wildlife/biodiversity needs of the area. However, the suggested provisions and landscaping would seem to be close to the minimum one would expect in a new dwelling in this location. Again, therefore, I do not consider the stated benefits to be significant (emphasis added) environmental improvements.
14. The appellants point to the supporting text to Policy DM5, at paragraph 6.37. They suggest that by virtue of the net reduction in traffic generation from the entire site, when compared to the former pub use, the site is acceptable with regard to accessibility and so conforms to the policy requirements. If the net reduction in the number of vehicles were to be as the appellant states, it would not make up for how inaccessible the appeal site is for sustainable transport modes, as implicitly required in regard to the principle of development. In addition, even if I were to conclude the accessibility of the appeal site was acceptable in this regard, it would not reduce the harm or subsequent policy conflict in regard to the required significant environmental improvements. My conclusions therefore remain and, with the above in mind, the appeal scheme would not comply with Policy DM5.
15. I have had regard to the previous appeal decisions supplied by the appellants, but these do not alter my views with regard to the circumstances of this particular case. Each case must be determined on its own merits. Similarly, I acknowledge that as part of a previous, unimplemented permission a car barn was to have been positioned where the dwelling is now proposed. However, I consider that to be an entirely different form of development that would give rise to a fundamentally different impact on the character and appearance of the area and subsequently does not overcome the harms I have found.
16. The appellant suggests that the site is wasted land and could be brought back into beneficial use for housing. However, the appellant does not appear to disagree that the Council is able to demonstrate a 5-year housing supply. Therefore, I could attach only a modest amount of weight to the provision of an additional dwelling. There would be other benefits associated with the provision of a new dwelling, including for the appellant as a small/medium-sized enterprise (SME), but again, these would be affected by the scale of the proposal and some would be time limited. The weight I could therefore attach to these matters is limited and would in any event be insufficient against the harm and conflict with the development plan that I have found and to which I ascribe substantial weight.

Conclusion

17. For the reasons given above, I conclude that the appeal should be dismissed.

Stewart Glassar

INSPECTOR