



Appeal Decision

Site Visit made on 11 October 2021

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 November 2021

Appeal Ref: APP/U2235/W/21/3266433

127 Hockers Lane, Thurnham, MAIDSTONE, ME14 5JY

- 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 Callen against the decision of Maidstone Borough Council.
 - The application Ref 19/504734/FULL, dated 12 September 2019, was refused by notice dated 6 July 2020.
 - The development proposed is 5 detached dwellings.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework ('the Framework') has been published since the planning application was determined by the Council. Both main parties have had the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework in reaching my decision.
3. There have been two previous appeals (APP/U2235/16/3161893 & APP/U2235/17/3181041) relating to the site dismissed due to character and appearance of the area. This proposal differs to those previous schemes as it proposes a lesser number of dwellings to that of the ten and seven dwelling schemes previously proposed. In addition, the proposal before me would make use of an existing vehicle access onto Hockers Lane rather than creating a new access onto Ware Street as proposed by the previous schemes.

Main Issue

4. The main issue is the effect of the proposed development upon the character and appearance of the area, including the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

5. The appeal site relates to the expansive rear garden of Apple Tree House, a large, detached property that fronts onto Ware Street and behind detached dwellings that front onto Ware Street and Hockers Lane. An access to 129 Hockers Lane leads to Popes Wood, a backland development of five dwellings, and 127 Hockers Lane, a chalet bungalow that adjoins the northern boundary of the appeal site. To the east the site is adjoined by a tennis court at Birling

House and Bearsted Golf Course with its tree belt that runs along side the appeal site's boundary.

6. Maidstone Local Plan (the Local Plan) identifies the appeal site as being within the countryside whereby Policy SP17 states that development proposals will not be permitted unless they accord with other policies in the plan and will not result in harm to the character and appearance of the area. It also states that proposals should not have a significant adverse impact on the settings of the Kent Downs AONB. Policy SS1 of the Local Plan directs new development to sustainable locations within existing settlement boundaries.
7. The site is free from built development and is laid as lawn, as can be seen from the photographs that support the appellants' case. As such, it relates more closely to the open golf course land to its east, rather than the suburban development that surrounds the site on its other boundaries. The proposal seeks to create five large two-storey dwellings set around a cul-de-sac type access arrangement with associated formalised access, parking, landscaping, lighting, and domestic paraphernalia. The CGIs provided by the appellants show dwellings of modern design in the form of a small housing estate. By creating a development of urbanised appearance and nature this would substantially alter the character and appearance of this undeveloped site. The creation of dwellings and urbanisation of the site would substantially diminish the open characteristics of the site.
8. The site sits behind existing development and the proposed dwellings would be largely screened in views from Ware Street due to existing dwellings, boundaries and vegetation. However, in views from Hockers Road the openness of the appeal site is visible in gaps between dwellings. The appeal site would also be visible to existing adjoining neighbouring occupiers and in views from the proposed site access. The development would be visible in these identified views and would reduce visibility across the appeal site towards the countryside beyond. It would also change the setting of the golf course by replacing undeveloped countryside land to one of urban housing. As such, the proposal would not preserve the site as countryside and would, therefore, be harmful to its character and appearance. The harm arising would be visible from the public road and to adjoining occupiers. Space around and between the proposed dwellings, central area of open space and landscaping around the site designed into the scheme would not obviate this harm.
9. The appeal site is located at the edge of Maidstone. The appellant draws attention to the spatial strategy and the site representing a sustainable location in respect of proximity to public transport links, services and facilities that are said to be around a 1 km walk from the site. Notwithstanding this, the proposal would not accord with Policy SS1 of the Local Plan as it is not within existing settlement boundaries or any of those settlements set out within the spatial strategy despite its siting close to the edge of the urban area.
10. The AONB is approximately 780m north of the appeal site. It is some distance from the appeal site and is not directly visible from the site. The Framework sets out that great weight should be given to conserving and enhancing landscaped and scenic beauty in AONBs which have the highest status of protection in relation to those issues and goes on to say that development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated area. Policy SP17 requires great

weight to be given to the conservation and enhancement of the Kent Downs AONB.

11. Both the Maidstone Landscape Character Assessment (LCA) (March 2012 – amended July 2013) and the Maidstone Landscape Capacity Study: Sensitivity Assessment (LCS) January 2015 identify the appeal site as falling within the Bearsted Golf Course Landscape Area. Despite the golf course being a managed landscape the LCS indicates that the area is considered to lie within part of the foreground of the Kent Downs AONB and both the LCA and LCS identify that Landscape Area forms part of the setting of the AONB. The conclusions reached by the LCA are that the area represents a sensitive location in the landscape providing a setting to the AONB to the north.
12. The appeal Inspectors, in assessing the earlier proposals, agreed that the development of the appeal site would cause landscape harm as the resulting incursion of development into the undeveloped countryside would fail to maintain the setting of the AONB and this would be contrary to the aims of the LCA and LCS and to Policy SP17. On the evidence before me I have reached the same view in regard to the harm to the setting of the North Downs AONB.
13. It is said that the applicants (now the appellants) have sought to address previous concerns raised by the Inspectors by lowering roof heights and removing previously proposed retaining walls. I accept that the design of the scheme, taken on its own merits, may be considered to represent a well-designed residential development. However, this does not overcome my above concerns.
14. For these reasons, I conclude that the proposed development would be harmful to the character and appearance of the area and the Kent Downs AONB. The proposal would, therefore, conflict with Policies SS1, SP17 and DM30 of the Local Plan, the Framework and the LCA that seek to protect the countryside and the AONB and that require development to respond to its location. The Council's decision notice also refers to the Kent Downs AONB Management Plan 2014-2019, however the Council has not referred to it within its Statement of Case, therefore I have not been directed to any parts of that document to which the development may be contrary.

Other Matters

15. The future new Local Plan is at a very early stage, and as such is extremely likely to be subject to change. Therefore, any inclusion of the site for potential residential development within the Regulation 18b document holds very little weight at this present time. I note that the appeal site has been included as part of a larger site area within the SHLAA Report, however such inclusion does not provide a clear indication for granting the proposal.
16. It is commented that there are other examples in the Borough where development has been permitted outside defined settlement boundaries, either by the local planning authority or on appeal. However, I have not been directed to any specific examples and therefore I cannot compare what similarity, if any, those developments might have to that of the proposal before me.
17. The proposal would not harm the living conditions of adjoining existing or future occupiers and would provide a high standard of accommodation for

future occupiers of the proposed development. Furthermore, the proposal would make use of an existing access and the development would provide appropriate parking for occupiers and visitors, incorporating electric vehicle charging infrastructure and cycle parking. The proposal would make provision for habitat, wildlife and surface water drainage and would not impact trees on adjoining land. However, these elements of the proposed development would be required to be acceptable taken on their own planning merits. They do not overcome my above concerns or justify a grant of planning permission.

18. I acknowledge that the proposal has been subject to the Council's pre-application advice service and that Members of the Council's Planning Committee overturned their officer recommendation to grant planning permission. However, Members are entitled to come to their own conclusions on planning matters. Although there is some third-party support for the proposal, the scheme needs to be considered in terms of the wider public interest.
19. Paragraph 9 of the Framework explains that the three objectives of sustainable development are not criteria against which every decision should be judged. The proposal would provide a windfall site. However, the Council indicates that it is able to demonstrate an up-to-date housing land supply. This does not appear to be in dispute.

Conclusion

20. In accordance with the requirements of s38(6) of the Planning and Compulsory Purchase Act (2004), the appeal must be determined in accordance with the development plan unless material considerations indicate otherwise. The conflict with the development plan and the Framework is a significant and overriding factor. Consequently, the material considerations in this case, including the limited contribution to housing supply, do not indicate that the application should be determined otherwise than in accordance with the development plan.
21. For the reasons given, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR