



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: 4 November 2021

Appeal Ref: APP/U2235/W/21/3266837

Land to East of Chapel Lane, Bearsted, Maidstone, ME14 4PQ

- 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 Donald McGregor against the decision of Maidstone Borough Council.
 - The application Ref MA/20/502860/FULL, dated 27 June 2020, was refused by notice dated 26 August 2020.
 - The development proposed is residential development of 2 detached dwellings.
-

Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mr McGregor against Maidstone Borough Council. That application is the subject of a separate Decision.

Preliminary Matters

3. 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.

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 site is approximately 100m north of the Maidstone Urban Area boundary. Maidstone Local Plan 2017 (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.
6. Despite being close to Ware Street, the land north of the railway line and east of Chapel Lane has a rural character. There is a small cluster of dwellings further north along Chapel Lane however the area around these is generally

open. To the west of Chapel Lane and immediately west of the appeal site is the residential development, Edelin Road, which is partially visible through the vegetation along Chapel Lane. That recent development has created a projection of urbanised development north of Ware Street and west of Chapel Lane. I saw also that a dwelling has been built just north of the Edelin Road development that is accessed from Chapel Lane.

7. The site is free from built development and hosts trees and vegetation. As such, it relates more closely to the generally undeveloped land east of Chapel Lane rather than that of the suburban development west of Chapel Lane and south of the railway line. The proposal seeks to create two large two-storey dwellings set either side of a vehicular access. 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 rural characteristics of the site and the rural character of Chapel Lane.
8. A large access is proposed to serve the dwellings with a second that would provide access to a detached garage. The access road would continue through to the east of the site. This would contribute to altering the character of the site through urbanisation. It is explained that the access is required to allow access to the appellants other land for its maintenance and future use. The wide drive is also to provide turning for the refuse lorry that currently reverses down Chapel Lane from Ware Street. This is intended to provide a benefit to the residents and is said to be required for the fire appliances to comply with Building Regulations.
9. It is contended that the proposal would create a row of dwellings at the eastern side of Chapel Lane resembling other existing suburban streets that project north from Ware Street. However, the development would not relate well to the existing pattern of development through the introduction of the further residential development, where residential dwellings are generally limited. Furthermore, two large dwellings would appear out of keeping with the comparative density of development at Edelin Road and the cluster of dwellings further north along Chapel Lane.
10. Consequently, the proposal would not preserve the site as countryside and would, therefore, be harmful to its character and appearance. It would be visually incongruous both in terms of its size and scale, as well as its urbanisation of this rural site. Space around and between the proposed dwellings and set back from the lane, views through the site to trees beyond, retention of trees, and the use of quality materials within the development that reflect the local area would not obviate this harm. I note that the new property behind Edelin Road has a large hard surfaced frontage and that tarmac widening of the lane to the north provides hardstanding for St Ann's but this does not justify the extensive hard surfacing of the appeal site.
11. A revised plan and elevations for Plot 2 have been provided in support of the appeal. It is explained that this shows a reduction in scale and massing of that proposed dwelling. Whilst this would lessen its overall size, it would not overcome the loss of countryside and urbanisation of the site arising from the proposal.
12. I saw that the new dwelling north of the Edelin Road development is akin to a chalet style dwelling in appearance and that it nestles immediately behind

dwelling within Edelin Road. The proposed dwellings would be taller and larger than that dwelling. They would appear visually dominant when travelling along Chapel Lane. I do not consider the new dwelling north of the Edelin Road offers support for the proposal.

13. I have been referred to an appeal at Chart Sutton (appeal ref: APP/U2235/W/20/3246683). A comment has been made in connection with that appeal that the Framework does not restrict development in the countryside in the same way as Policy SP17. However, the Framework recognises the intrinsic character and beauty of the countryside and requires decisions to contribute to and enhance the natural environment. This aligns with Policy SP17 that seeks to prevent harm to the character and appearance of the countryside.
14. The AONB is north of the appeal site and is a distance from the appeal site. A Landscape and Visual Assessment (LVA) has been submitted in support of the appeal. The assessment demonstrates that the site cannot be viewed at any point from the AONB, however the images show that the site is visible in localised views, noting also that the LVA highlights Chapel Lane to be a definitive public footpath (KH116).
15. The Framework sets out that great weight should be given to conserving and enhancing landscape 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.
16. Policy SP17 requires great weight to be given to the conservation and enhancement of the Kent Downs AONB. I acknowledge that the Local Plan has no restrictive landscape policy for the area that falls beyond the AONB. Nonetheless the supporting text to Policy SP17 states that the *"Open countryside to the immediate south of the AONB forms a large extent of the setting for this designation. In Maidstone this is a sensitive landscape that is coming under threat from inappropriate development and is viewed as a resource that requires conservation and enhancement where this supports the purposes of the AONB"*. The LVA indicates that the appeal site falls within the Hollingbourne Vale West Countryside Landscape Character (Landscape Assessment of Kent 2004 prepared for Kent County Council) which identifies the land within this area as 'restore and create'. It also falls within Thurnham Vale Borough Landscape Character (Maidstone Landscape Character Assessment 2012) in which that assessment notes the landscape as 'conserve and improve'.
17. The appeal site lies within part of the foreground of the Kent Downs AONB and, as such, forms part of the setting of the AONB and land to which the landscape character assessments recognise as its special landscape context and seek to conserve it. The proposal would create large dwellings having a domesticating effect upon the site and Chapel Lane that would be detrimental to the rural character of both the site and Chapel Lane. This incursion of domestic development into the undeveloped countryside would fail to maintain the setting of the AONB and this would be contrary to the aims of Policy SP17 and the Framework. The harm to the setting of the AONB would be apparent in localised views of the site and from the adjacent public footpath.

18. The Council has permitted several substantial commercial and residential developments around Junction 7 of the M20 that are clearly visible from viewpoints within the AONB. I have not been provided with the details of those cases that might enable me to compare the circumstances relating to those cases to the one before me. Notwithstanding those developments, I do not consider that they provide justification for setting aside policies that seek to protect the setting of the AONB and its landscape in this case.
19. I have been provided with the officer's report with regard to the new dwelling just north of the Edelin Road development. I note in that case that the Council acknowledged the AONB north of the application site but made no further comment in respect of the designation. Given the close relationship of the site to the urban area that proposal was accepted despite being within the countryside and within the setting of the AONB. It appears that its relationship with the suburban development at Edelin Road immediately to the south of that site was a significant consideration in that case. Notwithstanding this, the proposal before me is for a larger development and needs to be considered on its own merits.
20. 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 SP17, DM1 and DM30 of the Local Plan and the Framework that seek to protect the countryside and the AONB and that require development to respond to its location.

Other Matters

21. I acknowledge that the proposal has been subject to the Council's pre-application advice service. Ultimately the outcome of the subsequent planning application is a matter for the Council as decision maker.
22. The future new Local Plan is at a very early stage, and as such, is extremely likely to be subject to change. Therefore, those potential housing allocations referred to further west of the appeal site included within the Regulation 18b document hold very little weight at this present time.
23. Although there is some third-party support for the proposal the scheme needs to be considered in terms of the wider public interest. It has been highlighted that some third-party responses may not have been made available to view on the Council's website. However, that is a matter for the appellant to take up with the Council separately.
24. The appellant alleges that the Council does not have a five-year housing land supply in place. Even if the supply shortfall is substantial and the housing land supply position severe, paragraph 11d)1 and footnote 7 of the Framework indicate that the application of policies in the Framework that protect areas or assets of particular importance (listing AONBs as one such area/asset) provides a clear reason for refusing the development proposed, which I have found to be the case here. As a result, the presumption in favour of sustainable development does not apply in this case.

Conclusion

25. 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 an 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.

26. For the reasons give, I conclude that the appeal should be dismissed.

Nicola Davies

INSPECTOR