



Appeal Decision

Site visit made on 18 August 2022

by Mr Cullum Parker BA(Hons) PGCert MA MRTPI MCMI IHBC

an Inspector appointed by the Secretary of State

Decision date: 23rd August 2022

Appeal Ref: APP/U2235/W/21/3287194

Paradi, Dickley Lane, Lenham ME17 2DD

- 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 T Powis of KTC Developments Ltd against the decision of Maidstone Borough Council.
 - The application Ref 21/503543/FULL, dated 4 July 2021, was refused by notice dated 13 September 2021.
 - The development proposed is described as '*demolition of existing annexe and erection of a single dwelling with associated parking, landscaping and environmental enhancements*'.
-

Decision

1. The appeal is allowed and planning permission is granted for demolition of existing annexe and erection of a single dwelling with associated parking, landscaping and environmental enhancements at Paradi, Dickley Lane, Lenham, ME17 2DD in accordance with the terms of the application, Ref 21/503543/FULL, dated 4 July 2021, subject to the conditions set out in Appendix A.

Main Issues

2. The main issues are:
 - (i) Whether the proposed development would be in a suitable location, with particular reference to policies concerned with housing in rural areas and accessibility of services and facilities, and;
 - (ii) The effect of the proposal on the character and appearance of the area.

Reasons

Whether proposal is in a suitable location

3. The appeal site forms part of the large garden associated with the detached bungalow 'Paradi' on the northern side of Dickley Lane. It is located a short distance between Lenham (approximately 1.6km to the centre) and Harrietsham (around 2.2km to the centre). The site itself is between a row of three houses with 'Ashurst Lodge' to the west. Dickley Lane is a narrow single lane highway in most places, flanked by trees and hedging with a verdant character

4. Policy SS 1 of the *Maidstone Borough Local Plan Adopted October 2017* (LP) sets out the spatial strategy for the location of development in the Borough. In particular, this sets out that between 2011 and 2031 provision is made through the granting of planning permissions and the allocation of sites for 17'660 new dwellings. It continues to detail that an expanded Maidstone urban area will be the principal focus for development. Harrietsham and Lenham are amongst five rural service centres, which are the secondary focus for housing development, with the emphasis on maintaining and enhancing their role and the provision of services to meet the needs of the local community.
5. Paragraph 4.18 of the supporting text to Policy SS 1 sets out that '*The five rural service centres of Harrietsham,...Lenham,...all provide a good range of services which serve both the village and the surrounding hinterland...The centres are connected by at least four bus journeys/weekday and all have a frequent train service.*' They continue to set out at Paragraph 4.20 that: '*Lenham provides a good range of local facilities and is the only rural service centre with a secondary school. The village has access to employment opportunities locally, and good rail and bus links to Maidstone and Ashford towns. There is easy access to the A20 which leads to Junction 8 of the M20 motorway. There are landscape constraints but, despite this, the village is considered the most suitable to accommodate the most housing development of all the rural service centres*'.
6. The appeal site falls outside of any defined settlement in the LP. As such, it is located in the countryside for planning policy purposes. Nonetheless, the policy does not prohibit the erection of dwellings outside of the settlement boundaries beyond indicating that protection will be given to the rural character of the borough to avoid coalescence between settlements and protection of landscapes including AONB. This is not dissimilar to national planning policy in the form of the National Planning Policy Framework (the Framework), which seeks to avoid new isolated homes in the countryside (Paragraph 80) and to promote sustainable development in rural areas, by locating housing where it will enhance or maintain the vitality of rural communities (Paragraph 79).
7. I saw from my site inspection that the appeal site is located adjacent to a large industrial/warehouse complex to its north, a petrol filling station to the west, residential dwellings to the south of Dickley Lane; with the main A20/Ashford Road located beyond. To the west, Dickley Lane becomes more verdant in character with loosely knit sporadic housing development before Mercer Drive which is the starting point for a more densely situated number of houses comprising Harrietsham. Therefore, whilst the appeal site is not located within any defined settlement boundary, the facts on the ground are clear in that the site is not isolated from nearby settlements. Paragraph 80 of the Framework is not decisive in this case as it concerns isolated homes.
8. In terms of sustainable development in rural areas, both Harrietsham and Lenham are recognised in the LP as providing a good range of services which serve both the village *and the rural hinterland*¹. The Council have drawn my attention to an earlier appeal decision from 2008² which was dismissed which concluded that due to the site's '*remote rural location, the proposal would promote the use of the private car*'. However, since 2008, there have been a number of changes – both in the context of the appeal site and planning policy.

¹ Emphasis mine.

² LPA's Statement of Case, Page 3, Paragraph 6.2

There is now a petrol filling station with food store that is open for extended hours. Furthermore, since 2012, national planning policy in the form of the Framework has been in place. These are factors which need to be taken into account in determining the appeal before me.

9. The Framework sets out at Paragraph 105 that *'opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making'*. Whilst recognising that the appeal site is not located in the centre of Lenham or Harrietsham, it would be relatively easy for future occupiers to access the services in both settlements – either using the nearby bus stop (within 400m of the site), by cycling or walking along the A20, or by using private motor vehicles. Once in either settlement, future occupiers would benefit from schools, food shops, doctor's surgeries, railway stations and community halls (these are located around 1.2km to 2.7km from the site).
10. I acknowledge the Council's concerns over private motor vehicle usage that may arise from the proposal. However, there are good range of local facilities located a short distance from the appeal site in Lenham and similarly in Harrietsham. The proposal would not only benefit from these facilities, but also occupiers will contribute to the vitality of the local community through social interaction and economic spending. Furthermore, the proposal would not result in harm to the rural character of the borough through coalescence between settlements, nor would it result in harm to the Kent Downs or High Weald Areas of Outstanding Natural Beauty or their settings.
11. Accordingly, the proposal would be located in a suitable location for development in this instance, and would accord with Policy SS 1 of the LP. For similar reasons it would accord with the Policies of the Framework including those set out at Paragraphs 79, 80 and 105.

Character and appearance

12. Policy SP 17 of the LP sets out that *'Development proposals in the countryside will not be permitted unless they accord with other policies in this plan and they will not result in harm to the character and appearance of the area.'* Policy CP1 of the *Lenham Neighbourhood Plan 2017-2031* July 2021 (LNP) sets out that development proposals should seek to protect the rural environment of the parish, such that there are no adverse impacts upon the character of the countryside. Paragraph 174 of the Framework says that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and beauty of the countryside.
13. The proposal seeks the erection of a bungalow with living accommodation in the roof form. Whilst the appeal scheme proposes a narrower plot than that found at Paradi and Ashurst Lodge which adjoin the site, it would reflect the pattern of development on the southern edge of Dickley Lane, where (generally) bungalows are set back from the highway with spaces between the built form.
14. It is clear from Drawing 07, Proposed Street Scene, that large gaps between the built form on the northern edge of Dickley Lane would be retained. The overall scale and size of the dwelling would be in keeping with the adjacent dwellings and the proposed dwelling would not look out of place being placed as proposed between existing residential units. In doing so, it would not erode

the beauty of the countryside, but rather utilise garden area of an existing dwelling in a different manner, whilst also retaining large areas of garden space around the dwelling. Furthermore, elements such as landscaping and the provision of a biodiversity enhancement area could be secured via condition, and would also positively contribute to the character of the countryside and the area more generally.

15. As such, I find that the proposal would not result in harm to the character and appearance of the area. Accordingly, the proposal would accord with Policy SP 17 of the LP and Policy CP1 of the LNP which seek the aforesaid aims. It would also accord with the Policies of the Framework, including those that seek to recognise the intrinsic character and beauty of the countryside.

Conditions

16. A number of conditions have been suggested by the local planning authority. Conditions have also been suggested by the Environment Agency as the appeal site is located on a principal aquifer. I have considered those suggested in light of Paragraph 55 of the Framework and the guidance provided in the national Planning Practice Guidance and the use of planning conditions.
17. A condition requiring development to have started within three years and be in accordance with the submitted drawings are necessary for the avoidance of doubt and to provide certainty.
18. Conditions requiring details of materials, boundary treatments, and a landscaping scheme (together with a condition that planting is put in place and replaced if it becomes damaged), are reasonable and necessary in order to protect the character and appearance of the area. A condition requiring the submission, approval and implementation of a landscape and ecological management plan for the biodiversity enhancement area is necessary to ensure that the proposal conserves and promotes biodiversity. A condition requiring the provision of an electrical vehicle charging point is reasonable to promote and encourage the use of sustainable transport modes.
19. The Environment Agency has suggested conditions relating to surface and foul water, and measures should contamination be found. These are reasonable and necessary in order to minimise impacts on public health and to improve local environmental conditions as sought under Paragraphs 174 e) and 183 of the Framework.

Conclusion

20. The proposed development would accord with the adopted development plan and there are no material considerations that indicate a decision otherwise than in accordance with it.
21. For the reasons given above, I conclude that the appeal should be allowed.

C Parker

INSPECTOR

APPENDIX A – Conditions imposed

- 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:
 - Site Location Plan RevB,
 - Existing Block Plan Rev A, Dwg. No. 02,
 - Proposed Block Plan Rev B Dwg. No. 03,
 - Proposed Elevations North & South Dwg. No. 04,
 - Proposed East & West Elevations RevA Dwg. No. 05,
 - Proposed Floor Plans Dwg. No. 06,
 - Proposed Street-Scene Dwg. No. 07,
 - Proposed Biodiversity Plan Dwg.08,
 - Existing Annexe Accommodation Dwg. 09.
- 3) The development hereby approved shall not commence above slab level until, written details of the materials to be used in the construction of the external surfaces of the building, and the colour of the gravel bound surface to be used for the driveway and parking/turning area, have been submitted to and approved in writing by the local planning authority and the development shall be constructed using the approved materials/details. The external materials shall be ragstone, stock brickwork and clay hanging tiles including bull nose tiles (walls), natural slate (roof), and timber (windows and doors) as stated on the application form.
- 4) The development hereby approved shall not commence above slab level until, details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the local planning authority and the development shall be carried out in accordance with the approved details before the first occupation of the building and maintained thereafter.
- 5) The development hereby approved shall not commence above slab level until a landscape scheme has been submitted to and approved in writing by the local planning authority. The scheme shall show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed and include a planting specification, a programme of implementation and a 5 year management plan.
- 6) All planting, seeding and turfing specified in the approved landscape details shall be carried out either before or in the first planting season (October to February) following the occupation of the building or the completion of the development, whichever is the sooner; and seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, die or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the local planning authority gives written consent to any variation.

- 7) A landscape and ecological management plan for the 'Biodiversity Enhancement Area' for the north of the site, including long term design objectives, management responsibilities and maintenance schedules, shall be submitted to and approved in writing by the local planning authority prior to first occupation of the dwelling. Landscape and ecological management shall be carried out in accordance with the approved plan unless the local planning authority gives written consent to any variation.
- 8) The dwelling hereby approved shall not be occupied until a minimum of one electric vehicle charging point has been installed on the building, and this shall thereafter be retained for that purpose.
- 9) If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the local planning authority. The remediation strategy shall be implemented as approved.
- 10) No infiltration of surface water drainage into the ground is permitted other than with the written consent of the local planning authority. Details of such measures, if required, shall be submitted to and approved in writing by the local planning authority before occupation of the development hereby permitted. The development shall be carried out in accordance with the approved details.
- 11) No development shall commence above slab level until a strategy to deal with foul water drainage is submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

*****END OF CONDITIONS*****