



Appeal Decision

Site visit made on 22 November 2022

by B Pattison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 FEBRUARY 2023

Appeal Ref: APP/U2235/W/22/3295624

21 Station Road, Headcorn TN27 9SB

- 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 Mrs A Porter against the decision of Maidstone Borough Council.
 - The application Ref 21/506844/FULL, dated 20 December 2021, was refused by notice dated 8 March 2022.
 - The development proposed is construction of two no. three-bed detached dwellings with dedicated off-street parking and associated hard and soft landscaping; utilising existing highways access and including alterations to drop kerb and new access driveway.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs was made by Mrs A Porter against the Council. This application is the subject of a separate decision.

Main Issue

3. The main issues are:
 - The impact of the proposed development on the character and appearance of the area; and
 - The impact of the proposed development on protected trees on the site.

Reasons

Character and appearance

4. The appeal property is a detached house located on a part of Station Road which is largely characterised by a mixture of detached and semi-detached houses. Properties on this stretch of the road are arranged in a discernible building line and set back from the road behind front driveways with rear gardens providing a green buffer to the residential development and creating a spacious suburban character and appearance.
5. The appeal property has an unusually large rear garden which extends beyond the gardens of its neighbouring properties to the east and is glimpsed between the spaces between the dwellings. To the north, the rear garden shares boundaries with houses fronting Chaplin Drive. To the east, the garden shares a boundary with a petrol filling station. Whilst some of the surrounding properties have single-storey outbuildings within their rear gardens, there is no

example of backland residential development in the immediate vicinity of the appeal site. The appeal property therefore contributes positively to the character and appearance of the area.

6. The two houses would be located within the rear, wider portion of the “donor” property’s garden. When viewed in isolation, their design, traditional form and use of traditional materials would not be out of keeping with the surrounding residential buildings. However, the layout of the dwellings within irregular and wide plots would not reflect the more regular and linear spatial quality of plots within the local area.
7. Due to their backland location, the houses would not address any street frontage, contrary to the predominant layout of dwellings in the area. The elevations of both houses would be very close to the site’s northern boundary with 56 Chaplin Drive, and the southern boundary with the rear of properties on Station Road. This would not have an unacceptable impact on the living conditions of any neighbouring occupiers or future occupiers of the new houses. However, buildings positioned in such proximity to rear garden boundaries is not a characteristic of the area and would erode the green buffer between the residential properties. As a consequence, I find that the dwellings would be ‘squeezed’ onto the site in a manner that would appear cramped.
8. The appellant has provided a statistical comparison of the density of the proposed development and plot coverage ratios, derived from analysis of the two houses’ footprint sizes and site areas. Whilst the proposed development would not be at odds to the prevailing density and plot coverage of neighbouring sites, for the reasons outlined above, the form of backland development, would appear awkward and uncharacteristic to the area.
9. The proposed parking court would introduce a large area of hardstanding which would have a harmful urbanising effect on the rear corner of the appeal site which currently forms part of the donor property’s garden. Whilst Manual for Streets (2007) and the Kent Design Guide (2000) may identify shared courtyard parking as a suitable design response in certain situations, in this instance, the parking court would be an uncharacteristic addition.
10. The appellant has referred to a recent planning permission¹ at the appeal property for the erection of a single dwelling within the rear of the site. However, the proposal before me is for two dwellings and therefore the properties, together with two separate curtilage developments and more comings and goings are likely to have a greater impact on the character and appearance of the area than a single dwelling.
11. For the above reasons, I conclude that the proposed development would have a detrimental impact on the character and appearance of the area. I therefore find that it conflicts with Policy DM1, DM9 and DM12 of the Maidstone Local Plan (2017) (MLP). Amongst other aspects, these policies seek to secure development of a high standard of design which positively contributes to the existing character, appearance and context of the area.
12. The proposed development would also be at odds with the design advice in the National Planning Policy Framework (2021) (Framework) which says that developments should be sympathetic to local character, and that the creation

¹ Maidstone Borough Council reference: 22/502266/FULL

of high quality buildings and places is fundamental to what the planning and development process should achieve.

Trees

13. A number of mature trees lie within the site boundaries. Of particular note are two individual trees, an Oak tree (labelled as T1) and a Horse Chestnut (labelled as T2) on the site's northern boundary, which are protected by a Tree Preservation Order (TPO). The trees together contribute significantly to the character and appearance of the area, emphasising its space and verdant quality.
14. There would be two areas of construction incursion into the root protection zone (RPZ) of T2. Whilst no built structures will incur into the RPZ of T1, a large area of the parking court would overlap into the RPZ and a cycle store would also be erected within it. The appellant suggests that the build up of this area would be achieved through the use of a proprietary load-spreading root protection system filled with a granular material. However, an Arboricultural Assessment has not been submitted by the appellant, and no further details to demonstrate how potential harm to the trees will be mitigated have been provided. Given that TPO trees are specifically protected as they are highly important for the amenity of the area, it is imperative that it can be demonstrated that the impact of proposed development would be mitigated to ensure there is no harm to them. In the absence of such information, it has not been demonstrated that the health of the trees would be safeguarded.
15. The appellant suggests that fallback developments could be installed within the TPO trees' root protection zones without the requirement for any assessment under a planning application. This is because they could be constructed utilising the appeal property's permitted development rights, for which an assessment of the impact of development on TPO trees is not required. Whilst this may be the case, even if proposed works do not require planning permission, the impact on trees must still be considered and, for instance, cutting roots is a prohibited activity that requires a separate consent.
16. The Council refer to the potential for significant pressure from future occupiers for the removal or works to the trees on and around the site. Unit A would be located in close proximity to T1, with its main dining area opening out onto the tree. The room would receive limited additional light from the kitchen window which would also be shaded by T2. The future occupiers would be aware of the proximity of the trees and that they are protected by a TPO when purchasing the property. However, it is not unreasonable to assume that dissatisfaction with shade, falling leaves and debris could well grow with experience. If the development were to be allowed therefore, there would be a significant risk of that leading to pressure for substantial reduction or complete felling of the tree which, despite the comments of the appellant, could be difficult for a reasonable local planning authority to resist. As a consequence, the site would become more urbanised and the verdant nature of this area would be eroded.
17. For the above reasons, I conclude that it has not been demonstrated that the proposed development would not have a detrimental impact on the health of the trees covered by the TPO. I therefore find that it conflicts with Policy DM1 of the MLP. Amongst other things, this policy seeks to ensure that the natural environment is safeguarded from harm.

18. The proposed development would also be at odds with the advice in the Framework which says that trees make an important contribution to the character and quality of urban environments and that existing trees should be retained wherever possible.

Other Matters

19. The concerns expressed regarding the Council's conduct during the processing of the planning application fall outside of the remit of this Decision.

Planning Balance and Conclusion

20. I acknowledge that residential development in this location is acceptable in principle and the proposal may be compliant with various provisions of the development plan. However, it would be harmful to the character and appearance of the area and would cause potential harm to the health of the TPO trees bringing it into conflict with the development plan as a whole.
21. The appellant has brought to my attention that the site benefits from permitted development rights and indicates that this is a fallback position. Potential permitted development works include the construction of an area of hardstanding, new fencing and a large single storey outbuilding. From the sketch diagram of the potential works which has been provided, it appears that the potential permitted development works would be less harmful than the proposed development which would provide two, two storey buildings. These would cover more of the site and would be more prominent than the potential permitted development works. Therefore, while it may be a possibility that the works could go ahead, given that they would be less harmful than the proposed houses I give minor weight to the fallback.
22. The appellant has suggested that the proposed development would have a positive effect on the area's housing supply contributing to the percentage of local housing expected to be provided through windfall sites, and that it would represent sustainable development making an efficient use of the site. It would also increase the density of an under-developed site, whilst the proposed layout would be at an appropriate density. Whilst I do not doubt that there would be beneficial effects, these would not be sufficient to outweigh the conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, to indicate that the appeal should be determined otherwise. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

B Pattison

INSPECTOR