



Appeal Decision

Site visit made on 1 February 2023

by H Wilkinson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 February 2023

Appeal Ref: APP/U2235/W/22/3294625

17, Dunrovin, Charlesford Avenue, Kingswood, ME17 3PE

- 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 Ireland against the decision of Maidstone Borough Council.
 - The application Ref 21/506383/FULL, dated 25 November 2021, was refused by notice dated 31 January 2022.
 - The development proposed is described as land to rear of 17 Charlesford Avenue change of use to residential and retention of existing summer house.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The planning application form indicates that development has begun however has not yet been completed. I observed on my site visit that the summerhouse has been constructed and that the area of hardstanding detailed on the submitted block plan has been provided. Nevertheless, I have determined the appeal on the basis of the proposed plans.
3. The use of the summerhouse has been queried by the Council. However, it is noted that the planning application form states that the use of the land would be residential, whilst the appellant's Statement of Case indicates that the use of the proposed summerhouse would be for purposes ancillary to Dunrovin. I have therefore determined the appeal on this basis.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area;
 - biodiversity with particular regard to Ancient Woodland and the Kingswood Local Wildlife Site; and,
 - archaeological remains.

Reasons

Character and appearance

5. The appeal site lies within a residential area characterised by a mix of house types, most of which occupy generous sized plots and feature well-proportioned linear gardens to the rear. The regularity of the development pattern together with the expanse of undeveloped countryside, including

various areas of woodland located on the northern side of Charlesford Avenue positively contribute to the character and appearance of the area.

6. For the purposes of Policy SP17 of the Maidstone Borough Local Plan 2017 (Local Plan), the appeal site is located within the open countryside and comprises an area of grassed land which is located to the rear of No 17 (Dunrovin) and No 17a Charlesford Avenue.
7. The proposed development includes the change of use of land to residential space together with the provision of a summerhouse which would be located within the extended garden area and enclosed by a post and rail fence. A substantial area of hard paving is proposed adjacent to the summerhouse.
8. The submitted plans indicate that the existing residential boundary would be extended beyond the limits of the immediate rear gardens. By virtue of its overall width and depth, the extended garden area would be disproportionate to both the existing and neighbouring plots and would thus disrupt the regularity of the development pattern. Although generally acceptable in terms of its design, external finish and scale, the proposed summerhouse would be disconnected from the host dwelling. Therefore, whilst it is recognised that the summerhouse would not be overly prominent given the proposed height, by virtue of its siting, it would nevertheless read as an incongruous addition within an otherwise undeveloped, countryside setting. Moreover, together with the extensive hard paved area, the proposal would erode the openness and character of the countryside through development sprawl and domestication.
9. For these reasons, I find that the proposed development would harm the character and appearance of the area contrary to Local Plan policies SP17, DM1, DM30, DM32 and DM33. Collectively, and amongst other aspects, these policies seek to ensure that development proposals are of a high-quality design which positively responds to, and where appropriate enhances the character of the site's surroundings. I also find the proposal to be inconsistent with the objectives of the Council's Residential Extensions Supplementary Planning Document (SPD), which in relation to separate buildings seeks to ensure that these are located close to the original dwelling house in order to contain the sprawl of buildings and safeguard the character and appearance of the countryside. The proposal is also inconsistent with the design objectives of the National Planning Policy Framework (the Framework) which seek to ensure that proposals add to the overall quality of the area.

Ancient Woodland

10. The appeal site is bounded on 3 sides by Ancient Woodland and also lies within proximity of the Kingswood Local Wildlife Site. In accordance with Local Plan Policy DM3, proposals are required to avoid damage to, and inappropriate development considered likely to have significant direct or indirect adverse effects on locally designated sites of importance for biodiversity. This includes both Ancient Woodland and Local Wildlife Sites. I am also mindful of Paragraph 180 c) of the Framework which indicates that development resulting in the loss or deterioration of irreplaceable habitats (such as Ancient Woodland) should be refused unless there are wholly exceptional reasons, and a suitable compensation strategy exists. In this instance, no exceptional circumstances have been evidenced.

11. The Council indicate that the site was previously covered by grassland together with scattered scrub and trees. In commenting on the planning application, the County Ecological Advisor advised that the appeal site would have been functionally linked to the woodland ecosystem, providing biodiversity value. The Council thereafter indicate that, given the works undertaken to date, little to no biodiversity value has been maintained on site whilst root damage to the ancient woodland is likely to have occurred. This is not refuted by the appellant.
12. Contrary to Natural England standing advice, the proposed development would be located within the 15m Ancient Woodland buffer. The use of the appeal site for domestic purposes would likely result in light and noise pollution and potential invasive plant species entering the woodland environment whilst the close boarded fence along the eastern boundary would inhibit the mobility of wildlife. No substantive evidence has been provided by the appellant to indicate the effects of the proposal or indeed that any harm to the Ancient Woodland and biodiversity could be adequately mitigated or compensated for. It has been put to me by the appellant that an ecological assessment could be secured by condition to remedy the above. However, given that this detail is key to identifying the impacts of the proposal in the first instance, and thereafter whether these impacts can be adequately mitigated, I am not persuaded that such a condition would be appropriate.
13. Accordingly, I find that the proposed development would be harmful to biodiversity, with particular regard to Ancient Woodland and the Kingswood Local Wildlife Site. The proposal is therefore contrary to Policy DM3 of the Local Plan which seeks to ensure that new development protects and enhances the natural environment by incorporating measures to protect areas of Ancient Woodland and locally designated sites. I also find the proposal to be inconsistent with the habitat and biodiversity objectives of the Framework.

Archaeology

14. The Council's evidence indicates that the appeal site is located within an area of archaeological sensitivity. Given the varying ground levels observed on site together with the evidence before me, it would appear that ground works have been carried out. In theory, a planning condition could be used to secure a desk-based assessment, however, as the development has begun, I cannot be certain that assets of archaeological sensitivity have not been affected. Therefore, a condition requiring such an assessment would not make the development acceptable.
15. Consequently, I find that the proposed development could adversely affect archaeological remains contrary to Local Plan Policy DM4. This policy seeks to ensure that development proposals respond to the value of the historic environment and, where development is proposed for a site which includes or has potential to include assets of archaeological interest, that an appropriate desk-based assessment is submitted, and where necessary, a field evaluation.

Other Matters

16. In coming to this view, it is acknowledged that the appeal site is not located within an Area of Outstanding Natural Beauty. I am also mindful that planning conditions could be imposed to limit future development at this location, control the use of the summerhouse and secure the implementation of

additional landscaping. It has also been put to me that the proposal would not result in the loss of trees within the site or affect the physical topography of the appeal area. Nevertheless, these factors do not outweigh the harm I have identified or the conflict with the development plan.

17. The appellant contends that Local Plan Policy DM32 as cited on the decision notice is not relevant given that the policy refers to rebuilding and extension of dwellings in the countryside. However, it is noted that criterion 2(iv) of Policy DM32 refers specifically to the construction of new or replacement outbuildings. Consequently, I find that the said policy is determinative to this appeal.

Conclusion

18. For the reasons outlined above, having regard to the development plan as a whole and all other relevant material considerations, including the Framework, the appeal is dismissed.

H Wilkinson

INSPECTOR