



Appeal Decision

Site visit made on 6 July 2023

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12TH July 2023

Appeal Ref: APP/U2235/D/23/3320114

Tawanda, Pilgrims Way, Detling ME14 3JY

- 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 Tawanda Mudavanhu against the decision of Maidstone Borough Council.
 - The application Ref 22/505727/FULL, dated 5 December 2022, was refused by notice dated 1 March 2023.
 - The development proposed is erection of part replacement close boarded fence to boundary.
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Decision

1. The appeal is allowed and planning permission is granted for part replacement close boarded fence to boundary at Tawanda, Pilgrims Way, Detling ME14 3JY in accordance with the terms of the application, Ref 22/505727/FULL, dated 5 December 2022 and the plan submitted with it.

Preliminary Matters

2. The development for which planning permission is sought has already been completed. The details I observed at my visit appeared to accord with those shown on the submitted plan. For the avoidance of doubt, I have determined the appeal in accordance with these details.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the Kent Downs Area of Outstanding Natural Beauty (AONB).

Reasons

4. The appeal site is within the Kent Downs AONB. AONBs are designated for the purposes of conserving and enhancing natural beauty and Section 85(1) of the Countryside and Rights of Way Act 2000 places a duty upon me to have regard to this purpose in this decision. Paragraph 176 of the National Planning Policy Framework (the Framework) puts great weight on their conservation and enhancement.
5. Tawanda is a detached dwelling set in spacious grounds within a rectangular-shaped plot. Primary access to the property is taken from Pilgrims Way. A secondary access, which is the subject of this appeal, is located on the eastern boundary. This secondary access is taken from Pilgrims Way down a narrow single track between residential properties. This track is also a public right of way (PROW).

6. The character of the area includes well-spaced dwellings leading onto open fields to the south with linear bands of trees and hedges. Boundary treatments found on the access track are varied. These include tall close boarded fencing, hedging, stone/brick walls and post and rail fencing with hedging behind. As a result of this variety and the location of other built form, the top of the lane has a more enclosed feel, unlike the bottom of the track, which has a more open verdant character.
7. Adjacent to but set back from the track and PROW by a grass verge, a short section of close boarded timber fencing and gates measuring approximately 1.7m high have been erected. The alignment of the fences and gates tapers, with the gates being more recessed than much of the fence. At the time of my visit, the fence and gates appeared weathered, with trees overhanging sections of the fence.
8. The provision of this short section of fencing and gates to the site is not out of keeping with local character and does not detract from the openness of the countryside. The development is seen from most views in close proximity to a longer section of close boarded fence on the opposite side of the track. Even when not seen together, users of the track would have to pass comparable timber fencing on the opposite side. As such, the introduction of close boarded timber fencing and matching gates does not look inconsistent with its surroundings and other boundary treatments.
9. Whilst the fence and gates would have had a stark appearance at the time of erection, their appearance has weathered to avoid appearing discordant. There is a grass verge to the front, planting to either side and overhanging trees that also help to assimilate the development into its surroundings. Additionally, this setback also prevents the fence and gates from having an enclosing effect on the PROW. Accordingly, the location and design of the development have a neutral effect on land within the AONB and do not detract from its landscape and scenic beauty or its wildlife or cultural heritage.
10. Taking all of the above into account, I find that the development does not cause harm to the character and appearance of the area, including the AONB. Consequently, it complies with Policies SP17, DM1 and DM30 of the Maidstone Borough Local Plan. These seek, amongst other things, that development does not have an adverse impact on the setting of the AONB and is of a high quality design that maintains local distinctiveness. This is consistent with the objectives of the Kent Downs AONB Management Plan and the Framework in so far as design and the natural environment is concerned. It would also be consistent with the objectives of the Maidstone Residential Extensions SPD, which seeks to prevent unsympathetic boundary treatments that are not characteristic of the area or that harm openness.

Other Matters

11. The Council have concerns over the need for the width of the gates. As shown in the Council's officer report and from my own observations, the hedges and shrubs within the site behind the fence and gates are well established. As a result, it is likely that vehicles are forced to drive in the centre of the access to avoid conflict with these boundaries. Therefore, the width of the gates is appropriate.

12. It has been raised by third parties that a tree and hedgerow have been removed from the site. However, there is no substantive evidence before me to demonstrate that was the case or that any removal required consent.
13. Third parties have also raised concerns that the works have been undertaken without notification. However, Planning Practice Guidance¹ advises that a local planning authority can invite a retrospective application. Interested parties have had the opportunity to comment on the development.

Conditions

14. The Council have suggested imposing a condition in relation to the painting/staining of the fence/gates. Conditions have also been suggested for hedge planting and its maintenance. However, for the reasons set out above, the development that has taken place does not significantly harm the character and appearance of the area or the AONB, and these conditions are not considered necessary.
15. As this appeal is for retrospective works, the standard commencement condition is not necessary. I also do not find that a condition requiring the accordance with plans to be necessary, as the development has already been completed to the plan specified.

Conclusion

16. For the reasons given above, I conclude that the appeal should be allowed.

A Hickey MA MRTPI

INSPECTOR

¹ Paragraph: 012 Reference ID: 17b-012-20140306 Revision date: 06 03 2014