



Appeal Decision

Site visit made on 1 November 2023

by Elizabeth Lawrence BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th November 2023

Appeal Ref: APP/U2235/D/23/3329969

Oakridge House, Crismill Lane, Bearsted, ME14 4NT.

- 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 Gavin Body against the decision of Maidstone Borough Council.
 - The application Ref 23/502371/FULL, dated 17 May 2023, was refused by notice dated 24 July 2023.
 - The development proposed is described as erection of raised deck over sloping embankment.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. Both the appellant and the council's description for the development refer to it as being retrospective. As planning permission cannot be granted retrospectively, I have deleted reference to this from the description for the proposed development.
3. Concern has been expressed that the proposed deck may be sited outside the residential curtilage of the dwelling. I note that the Council is satisfied that the proposed deck is within the dwellings residential curtilage and little evidence has been submitted to indicate otherwise. The appeal has been determined on this basis.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the surrounding countryside.

Reasons

5. The appeal site is situated within an area of countryside that is characterised by undulating pastureland enclosed by trees, hedges, areas of woodland, highway infrastructure and small clusters of linear housing and other developments. The appeal property is located within a small row of modern houses which front onto Crissmill Lane, with open pastureland beyond. To the rear of the appeal property is a large area of undulating pastureland that includes numerous individual trees and which is partially enclosed by belts of woodland and a mixture of trees, hedges and scrub.

6. Immediately beyond the rear lawns of this row of dwellings is a steep bank that projects up to the pastureland. This bank, which is the subject of Tree Preservation Order TPO16/2007 (TPO), is largely covered by scrub and mature woodland trees.
7. Together and amongst other things policies DM30 and SP17 of the Maidstone Borough Local Plan 2017 (LP), seek to ensure that the scale and activity of new development maintains and where possible enhances local distinctiveness including landscape features. It should not result in harm to the character or appearance of the countryside.
8. This is consistent with paragraphs 174 & 130 of the National Planning Policy Framework 2023 (the Framework), which state that decisions should contribute to and enhance the natural and local environment. New development should be sympathetic to its landscape setting and add to the overall quality of the area.
9. The Council has also referred to LP policy DM32 in its decision notice. However, as this policy specifically relates to the rebuilding and extension of existing dwellings it is not directly relevant to the appeal proposal.
10. The proposed deck, whose frame has already been constructed, is centrally positioned at the end of the rear garden. It projects out from just below the top of the bank to close to the outer edge of the bank, over an area of young nettles and scrub. There is a mature Oak tree a short distance to the north of the proposed deck and a mature Poplar tree close to the southern side of the proposed deck.
11. From my site visit and evidenced in the appellants submitted photographs I am satisfied that the proposed deck would not be clearly visible from nearby public footpaths, Crissmill Lane, the M20, A20 or the designated Area of Outstanding Natural Beauty. However, notwithstanding its lightweight nature and subdued colour, the proposed deck would be clearly visible from the immediate rear garden environment and the pastureland to the rear of the property. It would be seen as encroaching into the undeveloped countryside, beyond the domestic lawns and into the narrow woodland and scrub strip.
12. The proposed deck would be sited close to two preserved trees, although the method of construction of the proposed deck should avoid any material root damage to them. Whilst few details have been provided relating to the surface water drainage of the proposed deck, this is a matter that could be dealt with by condition. Notwithstanding this, the proposed completed deck would physically interrupt the treed/scrub bank and when completed would impede natural regrowth beneath it.
13. Further, the proposed deck's impact on the undeveloped countryside, including the treed/scrub strip would be materially exacerbated by the placing of domestic paraphernalia on the deck and its use. It would have a suburbanising impact that would be totally out of keeping with the character and appearance of the treed/scrub strip and the adjacent pastureland. Also, as pointed out in the Council's report, if approved the proposal could set a precedent for other incursions into this treed/scrub strip which would have a further suburbanising impact on the undeveloped countryside.
14. I acknowledge that domestic activities already take place within the existing manicured garden areas, however they do not encroach into the undeveloped

area of countryside. Also, as pointed out by the appellant, the new houses are visible from the pastureland between the trees and mature scrub. This highlights the importance of the treed/scrub strip in helping to screen and soften the appearance of both the houses and any domestic paraphernalia from the undeveloped countryside.

15. For these reasons the proposal would unacceptably harm the character and appearance of the surrounding countryside. This harm would outweigh the benefits for the appellant and their family from having a raised bank and it is not a matter that could be adequately dealt with by condition.
16. I conclude that the proposed raised deck would unacceptably harm the character and appearance of the surrounding countryside. It would therefore conflict with LP Policies DM30 and SP17 of the Local Plan and paragraphs 174 & 130 of the Framework.

Other matters

17. Regarding privacy, due to the siting of the proposed decking there would be views from the decking towards the first-floor rear windows of the dwellings on either side of the appeal property. However, the users of the proposed decking are more likely to be facing towards the open pastureland and the distance and juxtaposition between the decking and the adjacent rear facing windows is not unusual for a rear garden environment. Accordingly, this is not a matter that would amount to a reason for dismissing this appeal.
18. Concern has been expressed that the use of the proposed decking could disturb bats. Whilst the appellant has submitted an ecology report it was prepared prior to the housing development taking place and is out of date. No details have been provided regarding the location of any bat boxes or other wildlife habitats. Had I found in favour of the appellant in relation to the main issue, this is a matter upon which I would have sought further comments from the appellant and the council.
19. Finally, the appellant has raised a number of concerns relating to the handling of the appeal application by the Council. These concerns are not material to the merits of the proposed decking, although it is a matter that could be taken up direct with the Council.

Elizabeth Lawrence

INSPECTOR