



Appeal Decision

Site visit made on 31 October 2023

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th December 2023

Appeal Ref: APP/U2235/W/22/3309742

Land adjacent to Oakside Barn, Tattlebury Lane, Headcorn, Kent TN27 9JU

- 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 and Mrs P Edwards against the decision of Maidstone Borough Council.
 - The application Ref 22/500327/FULL, dated 21 January 2022, was refused by notice dated 27 May 2022.
 - The development proposed is 2 storey house.
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Decision

1. The appeal is allowed and planning permission is granted for 2 storey house at Land adjacent to Oakside Barn, Tattlebury Lane, Headcorn, Kent TN27 9JU in accordance with the terms of the application, Ref 22/500327/FULL, dated 21 January 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The site address in the banner heading is taken from the decision notice, which more accurately describes the site than the application form.
3. The Council is currently preparing the Maidstone Local Plan Review (LPR). The LPR is undergoing Examination in Public, and the Council has recently consulted on the main modifications to the LPR that the examining Inspector considers are necessary to ensure it can be made sound in accordance with the National Planning Policy Framework (the Framework). The LPR is therefore at an advanced stage of preparation but has not yet been adopted by the Council.
4. I have been provided with copies of policies SP9 and SP15 of the LPR, which set out the emerging approach to development in the countryside, and the principles of good design, respectively. Given the stage of the LPR, these policies carry significant weight in the determination of the appeal. However, it is common ground between the parties that the emerging policies do not fundamentally change the policy approach to the proposed development from that set out in existing development plan documents. From the evidence, I have no reason to take a different view. Therefore, whilst I have had full regard to the emerging policies, I have determined the appeal on the basis of the adopted development plan at the time of my decision.
5. The evidence indicates that, since the application was determined, the Council has granted prior approval for the change of use of the agricultural building on the site to a dwellinghouse under the provisions of Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as

amended)¹. I have been provided with a copy of the prior approval decision and the approved drawings, which I shall refer to as the “prior approval scheme”. I have taken account of the prior approval scheme in my consideration of the appeal.

Main Issues

6. The main issues are:

- whether or not the site is in a suitable location for housing, having regard to the spatial strategy set out in the development plan, and accessibility to services and facilities;
- the effect of the proposal on the character and appearance of the area; and,
- whether material considerations exist that are sufficient to outweigh any conflict with development plan policy in respect of the above issues.

Reasons

Whether a suitable location for housing

7. The appeal site is accessed from Tattlebury Lane, which connects the A274 Maidstone Road with Ulcombe Road. The site lies immediately adjacent to three existing dwellings and therefore is not physically or geographically isolated. However, it lies outside of a defined settlement boundary, in the countryside.
8. Policy SS1 of the Maidstone Borough Local Plan 2017 (LP) focuses growth on key locations including Maidstone, with a secondary focus on rural service centres. The policy sets out that some limited housing development will also be located in larger villages. However, there is no explicit in-principle support for housing in other locations, including the appeal site, where protection is given to rural character and avoiding the coalescence of settlements. The spatial strategy supports the objectives set out in the National Planning Policy Framework (the Framework), to focus growth at existing settlements and to prioritise sustainable modes of travel.
9. The nearest settlement to the site is Headcorn, which is identified in the LP as a rural service centre. It would, therefore, provide for most of the day to day needs of future occupants of the proposed dwelling. From my observations, it would take around 18 minutes to walk, or 4 minutes to cycle, to Headcorn from the site. Some of this route would be along the vehicular carriageway on Tattlebury Lane, which is narrow and has limited space for pedestrians and cyclists to seek refuge from passing vehicles. There is a footpath along the A274 between Tattlebury Lane and Headcorn. However, the majority of the route would be unlit. Therefore, in all probability, it is unlikely that future occupants would regularly walk or cycle to Headcorn, especially in hours of darkness or in poor weather.
10. The evidence indicates there is a regular bus service between Headcorn, Tenterden, and Maidstone. I do not have substantive information before me to establish how easily these services could be accessed from the appeal site. However, even if the bus stop for these services is near to the Tattlebury Lane junction with Maidstone Road, it would require future occupants to navigate

¹ LPA Decision Notice Ref. 22/503285/PNQCLA

Tattlebury Lane which, as set out above, may not be feasible on a regular basis. Therefore, it is likely that future occupants would usually travel by car in order to access goods, services and facilities. Consequently, and notwithstanding the short distance to Headcorn, the development would be sited in a location that would prioritise the use of the car over sustainable modes.

11. Taking all of the above into account, I conclude that the proposal would be in an unsuitable location for housing with regard to the spatial strategy set out in the development plan, and there would be poor access to services and facilities. It would therefore be contrary to Policy SS1 of the LP which seeks to focus growth in key locations including existing settlements. It would also be contrary to the Framework insofar as it seeks to prioritise travel by sustainable modes.
12. The Council has referred to Policy SP17 of the LP in its second reason for refusal. Amongst other things, Policy SP17 resists development in the countryside unless it would not result in harm to the character and appearance of the area, and it would retain the separation of individual settlements. I will consider the effect of the development on character and appearance below. However, the proposal would retain the separation of individual settlements and I therefore find no conflict with Policy SP17 in respect of the suitability of the site's location for housing.

Character and appearance

13. The appeal site forms part of a former farmyard and area of hardstanding that lies adjacent to Tattlebury Lane. The site currently contains a partially enclosed barn and is surrounded on most sides by agricultural fields. Three former agricultural buildings within the wider yard area have been converted to dwellings. The dwellings have a utilitarian appearance, characterised by dark grey profiled metal roofs, wooden cladding and white render. The barn on the appeal site is the only remaining barn within the former farmyard. The evidence indicates that the site lies within the Headcorn Pasturelands character area, where the aim is to conserve and restore the pastoral farming landscape.
14. The proposed dwelling would add substantial bulk and mass of a domestic nature to the site, and it would therefore depart from the historic farming land use and landscape character. However, the character of the farmyard has already undergone significant change through the conversion of three barns to dwellings and associated development, including access, parking and circulation arrangements. Consequently, and notwithstanding the unique appearance of the existing dwellings, the site has become residential in nature and domesticated in appearance.
15. The development would be contained within the existing area of hardstanding without encroaching onto adjacent agricultural fields. Moreover, the dimensions and form of the development, including its pitched roof and gable end facing the lane, would be broadly similar to the adjacent Oakside Barn. Consequently, in terms of its scale, form, siting, and proportions, the proposed dwelling would be well-balanced with neighbouring properties and would be a congruent addition to the existing cluster of dwellings.
16. The proposed dwelling would be constructed with a dark grey profiled metal roof to match the adjacent buildings. However, its walls would be constructed

with brickwork, which would contrast with the cladding and render that are characteristic of other buildings within the yard. Notwithstanding this, brickwork is a common building material in the wider locality, including on Tattlebury Lane. Therefore, the use of brickwork would not be unsympathetic to local building styles. Details of the brickwork, and other materials, could be secured through condition to ensure they are appropriate to the local area.

17. The proposed dwelling would be largely screened from views from the rear by intervening buildings. It would be visible from other public vantage points, including on Tattlebury Lane. However, some of those views would be partially obscured by vegetation and trees. Whilst the permanent retention of the trees could not be guaranteed, they are well-established and there is limited evidence before me that indicates they are likely to be removed. Moreover, even in open views, the site would be seen as an integral part of the cluster of dwellings on the former farmyard site. It would not encroach onto land beyond the existing hardstanding area and, consequently, it would not cause any further material harm to local distinctiveness.
18. I conclude that the proposal would not cause harm to the character and appearance of the area. It would therefore be in accordance with Policy SP17 of the LP, which seeks to protect the character and appearance of the countryside. It would also be in accordance with Policy DM1 of the LP, the Framework, and the National Design Guide (NDG) which, taken together, promote high quality design that responds positively to local character. There would be further compliance with Policy DM30 of the LP insofar as it expects development in the countryside to maintain or enhance local distinctiveness.

Other material considerations

19. As set out above, the proposal would be contrary to the spatial strategy for the borough as set out in Policy SS1 of the LP. This conflict is sufficient to bring the proposal into conflict with the development plan when read as a whole. A grant of planning permission would therefore only be justified where other material considerations exist that outweigh the conflict with the development plan.
20. Of principal importance in that regard, is the extant permission for the prior approval scheme. Given that three other buildings on the former farmyard have been converted to dwellings under the prior approval regime, I consider there is a greater than theoretical prospect that the prior approval scheme would be implemented in the event the appeal is dismissed. It therefore represents a genuine 'fallback' position.
21. The conflict with Policy SS1 relates to the suitability of the site for housing, which lies outside of an area of focus for housing development, and where future occupants would have limited options to travel by sustainable modes to access services and facilities. However, any harm in this regard would be offset by the fact that the existing building could be converted to a dwelling even in the event the appeal fails. The proposed dwelling would have more habitable floorspace than the prior approval scheme and would provide an additional bedroom. However, the number of private vehicular trips generated to and from the site would be comparable.
22. The proposal would be larger than the prior approval scheme and would have a materially different external appearance due to the use of brickwork. However, there would also be some similarities between the schemes, including the

utilitarian form, roofing materials, and elevational features such as glass balcony balustrades. Moreover, I have not found harm in respect of the character and appearance of the area given the changes that have already taken place on the former farmyard through the conversion of three other buildings to dwellinghouses, and associated development.

23. Overall, I attach significant weight to the fallback position in my consideration of the appeal. The proposal would be similar to the fallback in terms of its location, access to services and facilities, and the impact on the character and appearance of the area. I therefore conclude that, in the particular circumstances of this case, there are material considerations present that are sufficient to outweigh the aforementioned conflict with the development plan.

Other Matters

24. The site lies within the setting of Maltmans, which is a Grade II listed building on the other side of Tattlebury Lane. The evidence indicates that its special historic interest lies in its early 17th Century architectural details. There is limited intervisibility between the appeal site and the listed building given the presence of intervening mature trees and other vegetation. Neither party has identified any harm would be caused to the listed building or its setting and therefore to its significance as a designated heritage asset. Based on the evidence, and my own observations, I have no reason to take a different view.
25. The Council is concerned that, if the proposal is permitted, it could come under pressure to approve similar developments in the countryside. I have not been directed to any specific potential sites or developments in this regard. However, the appeal site has certain characteristics that are unlikely to be directly replicated elsewhere, including its relationship with surrounding development, its character, and the existence of prior approval permission amongst other things. I therefore attach limited weight to this concern.

Conditions

26. The Council provided a list of suggested conditions, which I have considered with regard to paragraph 56 of the Framework and the Planning Practice Guidance. Where appropriate, I have adjusted the wording of the conditions to improve precision and enforceability and to prevent unnecessary duplication.
27. In addition to the standard time limit condition, I have attached a condition to define the permitted drawings to provide certainty.
28. I have imposed conditions requiring the submission of material samples and a landscaping scheme in order to protect the character and appearance of the area.
29. A condition is also included to secure a biodiversity enhancement scheme, in the interests of protecting and enhancing biodiversity.
30. I note that the Environmental Protection Team initially requested a condition in relation to land contamination, although no land contamination conditions were suggested in the Council's statement. The evidence indicates that there were no objections to the prior approval scheme on land contamination matters, and there is no substantive evidence before me to indicate the appeal site is likely to be contaminated. Accordingly, I have not included a land contamination condition as it would be unnecessary.

Conclusion

31. For the reasons given above and having regard to the development plan when read as a whole, and all other material considerations, I conclude that the appeal is allowed.

E Catcheside

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 18-06 13C (Proposed Site Plan), 16-06 17 (Existing Agricultural Building), 16-06 18A (UNIT 4 Plans + Sections), 16-06 19 (UNIT 4 Section + Elevation), 18-06 20B (Location Plan), 18-06 21 (Proposed Street Scene), 18-06 22 (Existing Site Plan).
- 3) No development shall take place above slab level until details and samples of materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development shall take place above slab level until a scheme for biodiversity enhancements has been submitted to and approved in writing by the local planning authority. The scheme shall include biodiversity enhancement measures to be integrated into the fabric of the permitted building as well as elsewhere within the site. The biodiversity enhancement scheme shall be implemented in accordance with the approved details prior to the first occupation of the development and retained permanently thereafter.
- 5) No development shall take place above slab level until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - The details of existing plants and trees to be retained and removed;
 - Details of all proposed planting, seeding and turfing;
 - A maintenance strategy for all retained and proposed plants, trees and turf.

The approved landscaping scheme shall be implemented in its entirety during the first planting season (September to March) following the first occupation of the dwelling or the completion of the development, whichever is sooner. Any trees, plants or turf that die or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

END OF CONDITIONS