



Appeal Decision

Site visit made on 27 February 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th March 2024

Appeal Ref: APP/U2235/W/23/3327071

8 Linton Road, Loose, Kent, ME15 0AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Wilson against the decision of Maidstone Borough Council.
 - The application Ref is 23/501245/FULL.
 - The development proposed is the erection of 1 No. new dwelling and detached garage on land to the north-east of the existing dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 19 December and updated on 20 December 2023. I have consulted both main parties on the latest version of the Framework and taken any comments received into consideration when making my decision.
3. The Council advises that their emerging Local Plan is at an advanced stage. The Council has provided a list of policies from the emerging Local Plan, which they consider are relevant to the appeal. However, the Council does not rely on these emerging policies in their decision. As a result, I have determined the appeal based on the same adopted development plan policies that the Council relied on.

Main Issues

4. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, having particular regard to the Loose Conservation Area (CA);
 - trees; and,
 - highway safety

Reasons

Character and appearance

5. Policy SP17 of the Maidstone Borough Local Plan October 2017 (the Local Plan) states that 'the countryside is defined as all those parts of the plan area outside the settlement boundaries of the Maidstone urban area, rural service

centres and larger villages defined on the policies map.’ The appeal site does not fall within any of these areas. Consequently, the appeal site falls within the countryside for planning purposes.

6. The appeal site lies within the Loose Valley CA and within an area which is defined as a Landscape of Local Importance. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. The CA is narrow in shape and follows the steep sided valley cut by the Loose River. The significance of the CA insofar as is relevant to this appeal is derived from its water features, including the Loose stream, mill ponds and springs and the steep wooded valley sides. The traditional architecture, which includes mill buildings and cottages and the surrounding mature trees make a positive contribution to the character and appearance of the CA.
7. The appeal site forms part of the garden of 8 Linton Road (No 8). The surrounding area generally consists of low density residential development, set within well landscaped gardens. There are a number of mature trees within the appeal site, which are substantial in size and highly prominent within the landscape. While the site lies at the edge of the CA and is above the historic core of the village, the appeal site provides a green and attractive backdrop to the historic core of the village. The existing trees and the verdant and open character of the appeal site make a positive contribution to the character and appearance of the CA.
8. At the time of my site visit, the trees were not in leaf and there were views available through the boundary vegetation of the historic core of the village. The existing trees were highly prominent from the centre of the village, with glimpsed views available of No 8.
9. The proposal seeks to provide a new 1.5 storey high dwelling, with the first floor accommodation contained largely within the roof space. The proposal has been designed to appear like a converted agricultural building, with external materials that would respect the local vernacular. While the proposed dwelling would be on lower level land than the shared access road and partially screened from the public realm by the existing boundary treatment and soft landscaping, views of the proposed development would be available over the boundary fence/vegetation and along the proposed access. Glimpsed views of the proposed development are also likely within the winter months from the historic core of the CA.
10. The provision of a new dwelling, garage and area of hardstanding would erode the verdant and open character of the site. In addition, as discussed further below, there would be harm to the existing mature trees, which would cause considerable harm to the character and appearance of the area. The proposal would harm the distinctive landscape character of the area and would fail to preserve the character and appearance of the CA. I find the harm to the CA to be less than substantial, but nevertheless of considerable importance. In accordance with paragraph 208 of the Framework, that harm should be weighed against any public benefits of the proposal.
11. The proposal would provide an additional family sized dwelling, which would contribute to the borough’s housing stock and would have social benefits. There would be economic benefits from the construction of the development

and future residents would help to support local services and facilities.

However, given that the proposal would only provide one new dwelling and the Council is able to demonstrate a five year supply of deliverable housing, I give the benefits of the proposed development limited weight in my decision. As a result, there are no public benefits of sufficient weight to outweigh the great weight, which I am required to give to the less than substantial harm that would arise from the development.

12. For the reasons given above, I conclude that the proposed development would be harmful to the character and appearance of the area and the CA. The proposal would conflict with Policies SS1, SP17, SP18, DM1, DM4, and DM30 of the Local Plan. These policies among other things require that development conserves and enhances the distinctive landscape character of the Loose Valley and conserves and where possible enhances the significance of a heritage asset.
13. I note that both main parties accept that the appeal site lies within the built up area for Loose. Nevertheless, the proposal would conflict with Policy LP3 of the Loose Parish Council Neighbourhood Plan 2019, which requires that development within the built up areas of Loose respects and complements the rural settlement, form, pattern, character and its landscape setting.

Trees

14. The existing trees are substantial in size and are attractive specimens. While the existing trees are not protected by a Tree Preservation Order, they are protected by virtue of being within a CA. They are prominent in views from the public realm, including from Linton Road. They also provide a green and attractive backdrop to the historic core of the village.
15. While the appellant's arboricultural report provides details of mitigation measures, including specialist foundations and no dig surfacing, the proposed development would be sited very close to existing trees, which are of a substantial size. The proposed development would involve incursions into the root protection areas (RPA) of several mature trees. Given the changes in topography, the root system for these trees would be more developed on the uphill side of the slope, where the proposed development would take place. The proposed garage would affect 13.7% of the RPA of one of the trees.
16. Although the proposed dwelling would be largely outside of the branch spread of the existing trees, the proposed garage is shown to be wholly within the branch spread of one of the trees. The required foundations for both the dwelling and the garage could potentially sever significant roots, leading to the decline and/or death of one or more of the existing trees. As the existing trees are of high public amenity value, such harm to or loss of one of the mature trees would significantly harm the character and appearance of the area.
17. Although the existing trees are located mainly to the north of the proposed development, the proposal has been designed with a large two storey feature window facing the existing trees. A rooflight serving the master bedroom would also be sited on the rear facing roof slope. The proposed Block Plan shows that the branch spread for one of the existing trees currently extends as far as the feature window and the rooflight to the master bedroom. The branch spread of the existing trees would also cover a large part of the garden of the proposed dwelling, resulting in shading. While leaf litter could be perceived as a

nuisance, it is not uncommon in verdant areas such as this. However, the proposal is likely to lead to future pressure to lop, top or fell the existing trees on the grounds of shading to the proposed dwelling and its garden, plus direct or perceived damage from branches and roots. Given the close proximity of the proposed development to existing trees, any future application to lop, top or fell the existing trees, would be difficult to resist.

18. For the reasons given above, I conclude that the proposed development would be harmful to existing trees. The proposal would conflict with Policies DM1 and DM3 of the Local Plan. These policies among other things seek to sensitively incorporate natural features, such as trees within a scheme and protect trees with significant amenity value. The proposal would also conflict with the Framework, which requires that planning decisions should contribute to and enhance the natural and local environment.

Highway safety

19. The proposal would provide a new vehicular access onto a shared access road, which is accessible from Linton Road (the A229). Although the shared access road is narrow in width, I noted on my site visit that there was space for two vehicles to pass each other.
20. The Council considers that visibility to the south of the access onto Linton Road (the A229) is restricted. While the land level rises to the south of the site, the road is relatively straight and there is clear visibility in a southerly direction for some distance. I am satisfied that vehicles exiting the appeal site would have good visibility of oncoming vehicles and other non-motorised transport approaching from the south.
21. The existing pedestrian footway is set back from the A229, behind a tree belt. While pedestrians are required to cross the shared access road, near to the point of the proposed access, pedestrians would be aware that they are approaching a road and alert to the possibility of encountering vehicular traffic. The proposal would only result in a small increase in vehicular traffic on the shared access road. Vehicles travelling along the shared access road would be travelling relatively slowly as a result of its layout and narrow width and would have reasonable visibility of pedestrians. Consequently, I do not find that the proposal would be harmful to highway or pedestrian safety.
22. For the reasons given above, I conclude that the proposed development would not be harmful to highway or pedestrian safety. The proposal would accord with Policies DM1 and DM21 of the Local Plan. These policies among other things require that developments can safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access. The proposal would also accord with the Framework, which seeks to create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

Other Matters

23. Section 66(1) of the Act requires me to have special regard to the desirability of preserving the setting of a listed building during the determination of an appeal. The Chequers Inn is a Grade II listed building, which is sited approximately 75 metres away from the appeal site. The significance of The Chequers Inn, insofar as is relevant to this appeal is derived from its early to

mid-seventeenth century architecture, timber frame, jetty to front floor and traditional materials. Given the distance, change in topography and intervening properties and tree screening, I concur with the Council and do not find that the proposed development would be harmful to the setting of this listed building.

24. The appellant has drawn my attention to an appeal at a neighbouring site for a new dwelling, which was allowed¹. The appellant advises that the Council's Conservation Officer did not object to the scheme at No 12. However, the context is materially different as the other scheme is located outside of the CA. The appellant also argues that the proposed development by reason of its distance from trees and the substantial canopy height would have a lesser impact on trees than the allowed scheme at No 12. However, there is limited information before me on the circumstances of the scheme at No 12. Nevertheless, I noted that the topography of the two sites is very different. I therefore give the appeal scheme at No 12 limited weight in my decision. In any event, I am required to determine the appeal scheme on its own merits.

Conclusion

25. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no material considerations, including the Framework, which would outweigh that conflict. Therefore, the appeal is dismissed.

A James

INSPECTOR

¹ APP/U2235/W/17/3187055