



Appeal Decision

Site visit made on 23 April 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 June 2024

Appeal Ref: APP/U2235/W/23/3320577

Coldharbour House, Coldharbour Lane, Hucking, Kent ME14 3LS

- 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 and Mrs Jack and Clare Crossley against the decision of Maidstone Borough Council.
- The application Ref is 23/500209/FULL.
- The development proposed is described as a replacement dwelling with new garage.

Decision

1. The appeal is allowed, and planning permission is granted for a replacement dwelling with new garage at Coldharbour House, Coldharbour Lane, Hucking, Kent ME14 3LS in accordance with the terms of the application, Ref 23/500209/FULL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters and Main Issue

2. The description of development cited in the planning application form differs to that contained within the decision notice and appeal form. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description of development as contained in the application form for the purposes of the heading above and paragraph 1 of my Decision.
3. On 22 November 2023, all designated Areas of Outstanding Natural Beauty (AONBs) in England and Wales became "National Landscapes". AONBs have been renamed and rebranded as National Landscapes to reflect *"their national importance: the vital contribution they make to protect the nation from the threats of climate change, nature depletion and the wellbeing crisis, whilst also creating greater understanding and awareness for the work that they do"*. and I have therefore replaced references to AONBs to National Landscapes.
4. A revised National Planning Policy Framework (the Framework) was published by the Government on 19 December and updated on 20 December 2023 and accompanied by a written ministerial statement (WMS). I have familiarised myself with the content of the revised Framework and the accompanying WMS and none of the revisions to the Framework would be material to this appeal. Having considered the revisions and in light of the principles of natural justice, in this instance I do not consider it necessary to invite any submissions from the parties on the revised Framework. Any references to the Framework hereafter in this decision are to the latest version.
5. Since the Council issued its decision on the planning application, the new Maidstone Borough Local Plan Review 2021-2038 (MLPR) has been adopted on 20 March 2024. As such, I have taken it into account in my decision. In regard to this appeal the Council have clarified the relevant MLPR policies are LPRSS1,

LPRS9, LPRSP14(A), LPRSP15, LPRTRA4, LPRHOU11, LPRQD1, LPRQD2, LPRQD4, LPRQD6 and LPRQD7. The appellant has had the opportunity to comment on these new policies.

6. The Council has confirmed that sufficient ecological information has been received in the form of a Preliminary Ecological Appraisal¹. Any subsequent approval would be subject to the provision of suitable conditions to ensure that suitable ecological mitigation measures are undertaken. As such, the Council no longer contests the second reason for refusal.
7. Therefore, I have confined my assessment of this appeal scheme to the remaining reason for refusal. On this basis, the main issue is the effect of the proposal on the character and appearance of the Kent Downs National Landscape and the surrounding countryside.

Reasons

Character and appearance

8. The appeal site occupies a triangular shaped parcel of land at the southern end of Coldharbour Lane in Kent. The site is located in an extensively rural location, within a small cluster of buildings and farmstead structures within the Kent Downs National Landscape. The surrounding area provides an open and verdant setting, linked by footpaths with views across rolling hillsides. At the time of my visit the original house had been demolished as part of an approved scheme². The proposal is for a replacement dwelling and large associated garage.
9. Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and AONBs (National Landscapes) which has the highest status of protection in relation to these issues. MLPR Policy LPRSP9 also seeks to conserve and enhance the Kent Downs National Landscape, stating proposals should not have a significant adverse impact on its setting.
10. The appeal site is located within the Friningham Downs section of the Dry Valleys and Downs Landscape Character Area as designated in the Maidstone Landscape Character Assessment, amended July 2013 (MLCA). The MLCA highlights that the landscape is largely undeveloped, although it does contain small villages and isolated farmsteads scattered widely within it. However, the MLCA also notes that the landscape is in 'Poor' condition and that it has 'Moderate' sensitivity, as such the general guidelines seek to restore and improve the rural character of the landscape.
11. The immediate area around the appeal site includes several other built structures including a converted barn to the south of the site, known as Flint Barn, and another dwelling to the east of the site. There are also associated outbuildings, garages, sheds and a small wind turbine at the site. The topography of the area also slopes down and away from the site to the south. The surrounding area is therefore considered as a small, scattered farmstead, and thus, it is within this context that the proposal is to be assessed.

¹ Prepared by KB Ecology, ref: 2023/03/12 and dated 13th April 2023

² Maidstone Borough Council Planning Ref: 23/503017

12. The appeal scheme proposes a replacement dwelling on the site. The proposed dwelling would be a detached building, with a more contemporary appearance similar to that of Flint Barn. A large single storey detached garage would also be constructed in the space between the appeal property and the dwelling to the east. The design of the appeal dwelling, with reference to its height, roof slope, proportions and use of materials such as flint, black metal profiled cladding, black timber cladding and shade fins would provide an interesting contemporary architectural composition. The treatment would combine well to provide an attractive building that would make an appropriate and suitable modern interpretation of local styles and character.
13. The replacement dwelling would be distinctly more visible along Coldharbour Lane due to the increased scale and bulk of the building, compared with the previously more modest sized structure. However, the positioning within the site, being adequately spaced from its neighbours and its appropriate design within this setting, is such that the replacement dwelling would not appear cramped or unsympathetic in its plot when viewed from public vantage points.
14. It is acknowledged that the proposal as a whole is significantly larger than the dwelling it replaces, however given its context within the existing cluster of buildings the proposal would assimilate well, rather than appearing as part of the more open countryside which surrounds the appeal site. In terms of public exposure, the existing site is relatively concealed in respect to longer views and makes little contribution in itself to the open rural character of its wider surroundings. Thus, the adverse impacts on the character and appearance of the area would be limited. As such, the proposal would at the very least conserve the landscape and natural scenic beauty, visual qualities and essential characteristics of the Kent Downs National Landscape, and the character and appearance of the surrounding countryside.
15. Accordingly, I conclude that the replacement dwelling would be acceptable development in terms of the effect on the character and appearance of the area, including the Kent Downs National Landscape. It would, therefore, comply with MLPR Policies LPRSP9, LPRSP15, LPRQD4 and LPRHOU11 and the Framework which collectively seek, amongst other things, development that is high quality design, respecting local, natural and historic character, appropriate to local landscape character and does not have a significant adverse impact on the setting of the Kent Downs National Landscape.

Other Matters

16. Representations have been received in respect to dark skies at night within the Kent Downs National Landscape. Part of the character of the Kent Downs is its dark skies, which are protected in local policy. The openings proposed are relatively modest other than the larger patio doors at the ground floor level. Nevertheless, given the location amongst the existing dwellings and the presence of a previous residential building at the site the proposal is not considered to result in unacceptable light spill.
17. However, external lighting could result in harmful impacts, therefore it is necessary to control this by condition. Subject to this condition, the proposal would not appear inappropriate in these views or harm the character of the surrounding area or landscape and scenic beauty of the Kent Downs National Landscape.

Conditions

18. The Council has provided conditions that it suggests should be applied in the eventuality that the appeal is allowed. I have assessed those with reference to the advice in the Framework and Planning Practice Guidance and have amended the wording of some without altering their fundamental aims. I sought the views of the parties on the conditions, including the appellant's agreement to pre-commencement conditions.
19. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans. This is in the interest of certainty.
20. As there could be features of archaeological interest on the site, it is necessary to secure the submission and implementation of a watching brief for archaeological work prior to commencement of development.
21. Conditions relating to materials and landscaping including hard boundary treatments are necessary to secure the satisfactory appearance of the Kent Downs National Landscape and the enhancement of the immediate setting.
22. Conditions relating to ecology, biodiversity and external lighting are necessary to secure adequate protection for nesting birds, bats and other wildlife on and around the site and for the enhancement of biodiversity. The external lighting condition is also necessary to conserve dark skies in the Kent Downs National Landscape. Also, in the interests of the character and appearance of the site and surrounding countryside, a condition is necessary to secure the retention of trees and hedgerows.
23. I have added a condition to ensure the development meets sustainability requirements in reducing carbon emissions through the provision of decentralised and renewable or low-carbon energy sources to achieve sustainability objectives.
24. The conditions relating to contaminated land are necessary to mitigate the risks of contamination to construction workers, future users of the land, and offsite receptors including neighbouring occupiers and water and ecological systems.
25. I have attached the condition relating to space for vehicles which is necessary for highway safety.
26. I have also attached a condition removing permitted development rights for additional structures within the curtilage of the property to protect the openness and character and appearance of the Kent Downs National Landscape and countryside.
27. I have also imposed a condition relating to water consumption and a condition in respect to [adaptable dwellings](#). These are necessary in light of the new policy requirements of the MLPR which exceed existing regulations and controls on these matters, to ensure that the development meets acceptable standards of sustainability and provides accessible and adaptable dwellings.

Conclusion

28. The appeal scheme would accord with the development plan, when read as a whole and the Framework. Having considered all material considerations and other relevant matters raised, I therefore conclude that the appeal is allowed.

Robert Naylor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 22201_CLD_414_010; 22201_CLD_414_110; 22201_CLD_414_111; 22201_CLD_414_112; 22201_CLD_414_181; 22201_CLD_414_183; and 22201_CLD_414_190.
- 3) Prior to commencement of development, a watching brief shall be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed, and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority and carried out as approved.
- 4) Prior to commencement of development, details / samples of the materials to be used in the construction of the external surfaces of the development including hard boundary treatments hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details / samples.
- 5) Prior to commencement of development, details of a scheme of hard and soft landscaping, using indigenous species which shall include indications of all existing trees and hedgerows on the land, and details of any to be retained, together with a programme for the approved scheme's implementation and long term management, which shall be for a minimum of 10 years, shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be designed using the principle's established in the Council's adopted Landscape Character Assessment (2012) and shall include:
 - (i) A planting schedule (including location, planting species, amount and size) for site; and
 - (ii) Details of hardsurfacing finishes.

Only non-plastic guards shall be used for the new trees and hedgerows, and no Sycamore trees shall be planted. The implementation and long term management plan shall include long term design objectives, management responsibilities and maintenance schedules for all landscape areas. The landscaping of the site and its management thereafter shall be carried out in accordance with the approved details.
- 6) The approved landscaping shall be in place at the end of the first planting and seeding season following completion of the dwelling. Any trees or plants, which, until a period of 10 years from the completion of the development has passed die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season with others of same size and species.
- 7) Prior to commencement of development, details of ecological enhancements integrated into the design and fabric of the dwelling hereby approved, shall be submitted to and approved in writing by the local planning authority. The development shall be implemented in

accordance with the approved details prior to the first occupation of the dwelling and all features shall be maintained as such thereafter.

- 8) In accordance with the submitted Preliminary Ecological Survey (by KB Ecology, ref: 2023/03/12, dated: 13th April 2023), an ecological enhancement plan (to include the retention of the existing pond and the open stock fencing; and the provision of log piles, a bug hotel, bee hotel and barn owl box), shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be in place prior to the first occupation of the dwelling hereby approved and shall be retained and maintained for the life of the development. Any of these features that are removed shall be replaced with a feature of the same type within one month of its removal.
- 9) The development hereby approved shall be carried out in accordance with precautionary mitigation measures relating to reptiles, as set out in section 4.4 of the submitted Preliminary Ecological Appraisal Survey (by KB Ecology, ref: 2023/03/12, dated: 13th April 2023).
- 10) Prior to commencement of development, details of how decentralised and renewable or low-carbon sources of energy will be incorporated into the dwelling hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be installed and operational prior to the first occupation of the dwelling and shall be retained and maintained for the life of the development.
- 11) The development hereby approved shall be carried out in accordance with the tree protection measures, as set out in the submitted Arboricultural Report (by GRS Ltd ref: Reference GRS/TS/TCP/AIP/TPP/AIA/107/22); and nothing shall be stored or placed, nor fires lit, within the tree protection areas. The tree protection measures shall be in place prior to any works commencing and maintained until all construction equipment, machinery and surplus materials have been removed from the site.
- 12) If during construction works evidence of potential contamination is encountered, works shall cease and the site fully assessed to enable an appropriate remediation plan to be developed. Works shall not recommence until an appropriate remediation scheme has been submitted to, and approved in writing by, the Local Planning Authority and the remediation has been completed. Upon completion of the building works, this condition shall not be discharged until a closure report has been submitted to and approved in writing by the Local Planning Authority. The closure report shall include details of;
 - (a) Details of any sampling and remediation works conducted and quality assurance certificates to show that the works have been carried out in full in accordance with the approved methodology.
 - (b) Details of any post-remedial sampling and analysis to show the site has reached the required clean-up criteria shall be included in the closure report together with the necessary documentation detailing what waste materials have been removed from the site.
 - (c) If no contamination has been discovered during the build then evidence (e.g. photos or letters from site manager) to show that no contamination was discovered should be included.

- 13) The development hereby approved shall not use piling or any other foundation designs using penetrative methods.
- 14) No external lighting, whether temporary or permanent, shall be placed or erected within the site unless details are submitted to and approved in writing by the Local Planning Authority. Any details to be submitted shall be in accordance with the Institute of Lighting Engineers Guidance Notes for the Reduction of Obtrusive Lighting, GN01, dated 2005 (and any subsequent revisions), and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. Any details to be submitted shall also show a lighting design strategy for biodiversity that will:
 - (i) Identify those areas/features on site that, due to their potential for use by bats, are particularly sensitive to lighting impacts (including any biodiversity enhancement features)
 - (ii) Show how and where external lighting will be installed in accordance with 'Guidance Note 8 Bats and Artificial Lighting' (or any subsequent updates) by the Bat Conservation Trust and Institute of Lighting ProfessionalsThe development shall thereafter be carried out in accordance with the subsequently approved details and retained and maintained for the life of the development.
- 15) The vehicle parking spaces within the application site, shall be completed prior to the first use of the development hereby approved and shall be permanently retained for parking thereafter and not used for any other purpose. No development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order, with or without modification) or not, shall be carried out on the areas indicated or in such a position as to preclude vehicular access to them.
- 16) Notwithstanding the provisions of the Town and Country Planning General Permitted Development (Amendment) (England) Order 2015 (or any order revoking and reenacting that order with or without modification), and except for what is shown on the approved plans, no development within Schedule 2, Part 1 Classes A, B, C, D, and E; and Schedule 2, Part 2, Class A, shall be carried out.
- 17) The dwelling hereby permitted shall meet the higher level of water efficiency of 110 litres per person, per day as set out under the building regulations Part G2 or any superseding standard. The dwelling shall not be occupied unless this standard has been met and the dwelling shall be thereafter retained as such.
- 18) The dwelling hereby permitted shall meet the accessible and adaptable dwellings building regulations Part M4(2) standard or any superseding standard. The dwelling shall not be occupied unless this standard has been met and the dwelling shall be thereafter retained as such

END OF SCHEDULE