



Appeal Decision

Site visit made on 30 May 2024

by Jane Smith MA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th July 2024

Appeal Ref: APP/U2235/W/23/3331689

Oakleigh, Thorn Road, Marden, Kent TN12 9EJ

- 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 M Brett (Tranquil Homes Ltd) against the decision of Maidstone Borough Council.
 - The application Ref is 23/502501/FULL.
 - The development proposed is erection of 2 No. detached dwellings with 4 bedrooms.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Maidstone Borough Council Local Plan Review 2021-2038 (LPR) was adopted in March 2024, and the 2017 Local Plan policies referred to in the reasons for refusal have been superseded. The Council has provided an update on the relevant LPR policies, and the appellant has had the opportunity to respond. I have had regard to the adopted Local Plan.

Main Issues

3. The main issues are:
 - whether the proposed development would be a suitable location for housing, having regard to the Council's spatial strategy and accessibility to services and facilities, and
 - the effect on the character and appearance of the area.

Reasons

Location

4. The appeal site is at the end of a ribbon of housing on one side of Thorn Road, radiating out from the centre of Marden. It is outside the defined settlement boundary, which includes the housing up to the junction with Copper Lane but excludes Oakleigh and its neighbour. As such, it is defined as being within the countryside for purposes of the Council's spatial strategy. This is confirmed in Policy LPRSP9 which also states that development in the countryside will not be permitted unless it accords with other policies in the LPR and will not result in significant harm to the rural character and appearance of the area.
5. Although interested parties have questioned whether the appeal site is part of a residential curtilage, having in the past been used as a paddock, the appellant

has provided evidence that its use as garden land is established, and the Council has not disputed that to be the case. Based on the available evidence and my observations on site, I have no reason to reach a different view.

6. Although the 2017 Local Plan excluded all garden land from the definition of previously developed land (PDL), paragraph 9.14 of the LPR only excludes garden land in urban areas. That is consistent with the definition in Annex 2 of the National Planning Policy Framework (the Framework). Therefore, the appeal site can be regarded as PDL, but the Framework also clarifies that it should not be assumed that the whole curtilage should be developed.
7. In the LPR, Policy LPRHOU1 allows for residential redevelopment of PDL in the countryside only in exceptional circumstances (part 2), and only on sites which have poor environmental value (part 1a). Part 2b of the policy requires consideration of whether the site is, or can reasonably be made, accessible by sustainable modes to the Rural Service Centre or provides bespoke working from home space.
8. Services in Marden include rail and bus services, employment opportunities and a range of services and facilities for day to day living. However, the appeal site is located at the outer periphery of the settlement. According to the appellant, the nearest services are generally at least 700m away, with the railway station and various other services being somewhat beyond that distance.
9. While this is not an unreasonable walking distance, there is no pavement between the appeal site and Seymour Drive, about halfway to the village centre. It is possible to walk along the open grass verges near the appeal site, but the carriageway becomes more enclosed by vegetation beyond Plain Road, so pedestrians would have to walk in the road. There are some sporadic streetlights here, but the road closest to the appeal site is unlit. These factors are likely to discourage travel on foot, particularly in the dark, or inclement weather, or for those who are less mobile or accompanied by young children.
10. Cycling would be feasible for a confident cyclist, but there are no dedicated cycle facilities. There would be obstacles discouraging walking to the nearest bus stops or railway station, as outlined above. Therefore, travelling by car would be an easier and more convenient option for many future occupiers.
11. Taking the above factors into consideration, the site has relatively poor access to services and facilities by sustainable modes, despite its proximity to the settlement boundary. The proposal does not offer scope to improve its accessibility. Although studies are shown on the plans, it has not been suggested that they would be dedicated to working from home or secured for that purpose. The site is not of poor environmental value, being a parcel of well-maintained garden land. Therefore, the criteria in Parts 1a and 2b of Policy LPRHOU1 are not satisfied.
12. For the above reasons, I conclude that the proposed development would not provide a suitable location for housing, having regard to the Council's spatial strategy and accessibility to services and facilities. It would conflict with LPR Policies LPRSP9 and LPRHOU1, which together limit residential development outside settlement boundaries, including on previously developed land.

Character and Appearance

13. The settlement boundary marks the transition between a relatively intensively developed frontage up to the junction with Copper Lane and the two detached dwellings beyond that point. There is no evidence that the exclusion of Oakleigh and its neighbour is an anomaly. The position of the boundary responds to the larger plots around these two dwellings, which provide an increasing sense of space at the interface between the settlement and surrounding countryside.
14. The site has a more domesticated character than the surrounding fields. There is some limited parallel with the distinction drawn in the Still Acres¹ appeal between land used as a caravan park and an adjacent paddock which was more clearly part of the open countryside. However, that does not mean that the site is inherently suitable for built development.
15. While there is no specific requirement in the LPR to provide a gradual transition between countryside and settlement, the appeal site does currently serve that purpose. It provides a spacious buffer of open space around the end of the ribbon development, which relates well to the adjacent open fields. This would be eroded by the proposed development and there would be a much more abrupt contrast between built development and the adjacent countryside.
16. The existing dwelling is a prominent feature in the approach towards Marden, above the boundary hedgerows. The proposed dwellings would be even more conspicuous, because of the absence of transitional open space around them. While they would be comparable in scale to the existing dwelling, at a relatively low density and set back from the road, there would be a significant increase in the bulk, massing and prominence of development at the edge of the village. There would also be an increased level of hard surfacing, parked cars and other domestic paraphernalia, compared to the existing leafy garden.
17. The ornamental trees which would be removed are not typical of the rural landscape. However, since there are already hedgerows on two boundaries, there would be limited space for a meaningful level of new native planting. Overall, the further encroachment of built development would undermine the rural character of this approach into Marden from the neighbouring countryside. While the effect would be relatively localised, the proposal would nonetheless cause significant harm to the character and appearance of the rural area in the vicinity of the site.
18. The Landscape Character Assessment² (LCA) referred to in the reason for refusal provided evidence to inform a subsequent Supplementary Planning Document (SPD). However, no such SPD has been brought to my attention. The LCA itself pre-dates both the 2017 Local Plan and the LPR by several years and I have therefore given its contents limited weight.
19. Nevertheless, for the reasons given above, I conclude that the proposal would be unacceptably harmful to the character and appearance of the area. It would conflict with relevant requirements in Policy LPRSS1 which prioritises protection of the rural character of the borough and with Policies LPRSP9, LPRSP15 and LPRQD4. These policies require amongst other things that development in the countryside should maintain or enhance local distinctiveness, with any

¹ Appeal Ref: APP/U2235/W/22/3311667

² Maidstone Landscape Character Assessment March 2012, amended July 2013

landscape impacts being appropriately mitigated, and not result in significant harm to the rural character and appearance of the area. The proposal would also conflict with relevant paragraphs in the Framework, notably paragraph 135 which advocates development which is sympathetic to local character, including the surrounding built environment and landscape setting.

Other Matters

20. There are other examples of approved development outside settlement boundaries, but those referred to are not directly comparable to the current proposal. In the Staplehurst appeal³, the location had been concluded to be acceptable in an earlier appeal, which has not been provided. However, the Inspector refers to existing dwellings on the opposite side of the road, as well as to the north and south, so the proposal would not have encroached beyond an existing ribbon of development as is the case here. At Warmlake Cottages⁴, the Inspector's reasoning indicates that the site was more effectively screened.
21. The nearby site allocated for new housing in LPR Policy LPRSA295 would be accessed near Seymour Drive, closer to the village centre, where there is an existing pavement. Therefore, the options for accessing services and facilities are not equivalent.
22. Although the appeal site is not isolated, given its proximity to the edge of the settlement, there is little evidence that a small development of two dwellings in this location would make any specific positive contribution to the vitality of the rural community. There would be a small contribution to the supply of housing land. However, there is no dispute that the Council can demonstrate an adequate supply of housing land and no shortfall has been alleged in delivery against annual requirements. While the Framework is supportive of development on small sites and the efficient use of previously developed land, that is not to the exclusion of other considerations about the suitability of any individual site and the effect on its surroundings.
23. The Council has not alleged any harm with regard to flooding, highway safety, or other matters raised by interested parties. However, even if I were to reach a similar view, that is a neutral consideration which weighs neither for nor against the proposal.
24. While the proposal would deliver some benefits, these would be modest in extent and do not outweigh the harm described above or the associated conflict with the development plan when read as a whole.

Conclusion

25. For the reasons given above the appeal should be dismissed.

Jane Smith

INSPECTOR

³ Appeal Ref: APP/U2235/W/22/3293651

⁴ Appeal Ref: APP/U2235/W/23/3322159