



Appeal Decision

Site visit made on 1 July 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 July 2024

Appeal Ref: APP/U2235/W/23/3331115

Pleydells Bungalow, Sutton Road, Langley, Maidstone, Kent ME17 3ND

- 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 S Busher against the decision of Maidstone Borough Council.
 - The application Ref is 23/502341/FULL.
 - The development proposed is the change of use of the existing annex to a new independent dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of the existing annex to a new independent dwellinghouse at Pleydells Bungalow, Sutton Road, Langley, Maidstone, Kent ME17 3ND in accordance with the terms of the application, Ref 23/502341/FULL, subject to the attached Schedule of Conditions.

Preliminary Matters

2. Since the Council determined the planning application, it has adopted the Local Plan Review 2024 (LPR). The policies in the LPR supersede policies from the Maidstone Borough Local Plan 2017 which were included in the Council's reason for refusal of the planning application. I sought the parties' comments on the implications of the LPR for the proposal and have determined the appeal based on the current adopted policies in the LPR, taking into account the comments received.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of the occupiers of Pleydells Bungalow and Clay Barn, and whether acceptable living conditions would be provided for future occupiers, with particular regard to privacy, and noise and disturbance.

Reasons

4. The site comprises a large former garage building converted to self-contained annex accommodation on the ground floor and within the roof space, with two retained garage bays. It lies between existing dwellings, Pleydells Bungalow and Clay Barn, with gardens and hard surfacing separating the three buildings. Clay Barn has a patio to the west of the property, with living room and main bedroom windows also on that side of the building.

5. The proposal is to change the use of the existing annex to an independent dwelling house. The site includes part of the hardstanding to the west, the hardstanding and access drive to the east and an area of lawn to the north.
6. A grass strip separates Clay Barn from the drive. The development would result in more intensive use of the drive from residents, visitors and delivery drivers accessing the proposed property, but this would be modest given its small size. Due to the position of Clay Barn in relation to the drive and the relatively modest increase in vehicle movements, the proposed dwelling would not cause unacceptable noise and disturbance to occupiers of the adjacent building.
7. The neighbouring patio at Clay Barn would be visible from the proposed rear garden and by those using the driveway to access the proposed house. Further, occupiers of Clay Barn would have views of the proposed garden from their living room and bedroom windows. However, the existing and proposed gardens would be generously sized, with a reasonable distance between the proposed mutual boundary and the existing patio and house at Clay Barn. In addition, there would only be a modest increase in the use of the driveway. As such, regardless of any boundary treatments, there would not be undue loss of privacy to users of the neighbouring patio from residents and visitors to the proposed property. Further, future occupiers would not be harmfully overlooked by existing occupants of Clay Barn.
8. The kitchen and dining-lounge windows in the annex are around 15-17m from three ground floor windows in Pleydells Bungalow, one of which serves a lounge. Whilst the habitable room windows of the proposed dwelling would face those in Pleydells Bungalow, given the reasonable separation distance between them, there would not be unacceptable overlooking between occupiers of the existing and proposed properties.
9. Consequently, I conclude that the proposed development would not harm the living conditions of the occupiers of Pleydells Bungalow and Clay Barn, and would provide acceptable living conditions for future occupiers, with particular regard to privacy, and noise and disturbance. It would accord with Policies LPRSP15 and LPRHOU11 of the LPR. Together, these require proposals to respect the amenities of neighbouring occupiers and to provide adequate residential amenities for future occupiers by ensuring that they do not result in excessive noise or overlooking, amongst other things.

Conditions

10. I have had regard to the Council's suggested conditions and considered them against the statutory tests outlined in the National Planning Policy Framework and the advice in the Planning Practice Guidance. I have made minor amendments, where necessary, to ensure that the conditions comply with these documents.
11. In addition to the standard time limit condition (1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans (2). This is in the interest of certainty.
12. A condition requiring a scheme for biodiversity enhancement (3) is necessary to improve provision for species. Further, a condition requiring details of hard and soft landscaping (4) will ensure that the character and appearance of the area is protected.

13. I have also imposed a condition requiring an electric vehicle charging point (5) to encourage the use of low emission vehicles.
14. A condition restricting future dwelling and roof enlargements and alterations, outbuildings and enclosures (6) is necessary to ensure satisfactory living conditions and to protect the character and appearance of the area.
15. Following the adoption of the LPR, the Council suggests conditions requiring water efficiency and on-site renewable low carbon energy production measures. However, as the proposal relates to an existing building where no external or internal changes are proposed, I do not consider that such conditions would be reasonable.

Conclusion

16. I conclude that the proposal would accord with the development plan and there are no material considerations that outweigh this finding. Accordingly, the appeal is allowed.

A Wright

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: site location plan; P1016/1 (existing site plan), P1016/2 (proposed site plan) and P1016/100 (existing and proposed plans and elevations).
- 3) Prior to the first occupation of the development hereby permitted, a scheme for the enhancement of biodiversity on the site, including an implementation programme, shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancement measures shall be carried out in accordance with the approved scheme and the agreed implementation programme and shall thereafter be retained and maintained.
- 4) Prior to the first occupation of the development hereby permitted, details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - all existing trees, hedges, shrubs and turfed areas to be retained or removed;
 - all proposed trees, hedges, shrubs and areas to be seeded or turfed;
 - means of enclosure, including boundary treatments;
 - an implementation programme; and
 - a 5 year management plan.

The landscaping works shall be carried out in accordance with the approved details and the agreed implementation programme and management plan.

- 5) Prior to the first occupation of the development hereby permitted, an electric vehicle charging point shall be installed within the site boundary, and that charging point shall thereafter be retained and maintained.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting that Order with or without modification), no development within Schedule 2, Part 1, Classes A, B, C or E or Part 2, Class A of that Order shall be carried out without the prior written permission of the local planning authority.