



Appeal Decision

Site visit made on 23 September 2024

by V Goldberg BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2024

Appeal Ref: APP/U2235/W/24/3339484

263 Boxley Road, Maidstone, Kent ME14 2AL

- 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 Dale Birkby of Oakcrown Developments Ltd against the decision of Maidstone Borough Council.
 - The application Ref is 23/501316/FULL.
 - The development proposed is the erection of 4 dwellings with access drive and car parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area including trees within the site and on adjacent land; and
 - the living conditions of the occupiers of 13a, 14, 15, 16, 17 and 18 Rock Road, 27a Northdown Close and 263a Boxley Road, with reference to noise and disturbance.

Reasons

Character and appearance and trees

3. The appeal site is a former quarry located to the rear of 263a Boxley Road. It is on significantly lower land than the surrounding properties with sloping banks around its perimeter. The site is verdant as it is surrounded by trees. A row of trees are positioned on the southern boundary and a group of trees are located on the northern boundary, between existing outbuildings. A small area of woodland lies to the west of the site.
4. The site is surrounded by detached dwellings in spacious plots which front the highway. Whilst the design of individual properties vary, all have good sized front gardens, many of which are covered in hard surfacing to facilitate parking. Dwellings sit comfortably within the plot, and this provides a planned spacious appearance that positively contributes to the character and appearance of the area.
5. The proposed dwellings appear cramped within the plot, due to the number of properties proposed, front gardens being very small or absent and the sloping banks impinging on plot sizes. In addition, the staggered design of the

dwelling all in close proximity to one another, would appear at odds with the prevailing character of spacious plots in the surrounding area. Whilst the dwellings would only be visible from within the site or the private gardens of 263a and 263b Boxley Road, the impact on the character and appearance of the area would be notable.

6. There are a mix of densities within the local area including examples of higher density housing, however, the immediate setting of the site is characterised by larger spacious plots. Whilst examples of developed back land sites exist in the locality, these tend to comprise detached properties in larger plots, thus they do not appear cramped within the site. As a result, they are not comparable to the appeal site and they do not justify the appeal scheme.
7. The Council have not objected to the design of the dwellings and I have no reason to form an alternative view. A proportion of the plot would be covered in hard surfacing to facilitate the access and parking arrangements within the site. This is not uncommon or uncharacteristic of sites such as this. In this case, the arrangement would not negatively affect the immediate setting of the proposed dwellings, nor would it unacceptably effect the character and appearance of the area. However, this does not alter my assessment that the development would constitute a cramped and incongruous addition to the area.
8. The proposal would result in the removal of fifteen category C trees within the woodland. Only one of these is in decline and most would be removed to either improve the proposed garden setting or facilitate construction of the parking area. Whilst these trees are individually of low value, they have a collective value as a woodland, and their removal would result in more than 50% of the trees in the wooded area being lost. This would adversely affect the character and appearance of this verdant site. Whilst soft landscaping is proposed for the bank around the western end, this would not mitigate the loss of established trees that are part of a woodland.
9. The trees identified for retention could be protected during construction and conditions could overcome this concern. I have not pursued this given that I am dismissing the appeal for other reasons.
10. The proposed site plans show the trees at the western end covering a large proportion of plot four's garden and being in close proximity to the front and western elevations of the dwelling. As a result, the main window serving the lounge and first floor bedroom would be in close proximity to trees. Whilst the arboricultural report details that there would be a reasonable and acceptable relationship between plot four and the retained trees', this assessment is based on the need to remove trees. Even if, only retained trees are considered, the arboricultural report does not address if the scheme allows adequate space for the retained trees natural development, with due consideration to its predicted height and canopy spread as detailed in the British Standards BS5837:2012¹. Given the proximity of trees, it would be reasonable for future occupiers to want to cut back or remove those near habitable windows or those impinging on the garden area. Such work or inappropriate pruning would have an adverse impact on the character and appearance of the area.
11. Whilst the woodland area would be fenced off with access for maintenance only, designated as a nature reserve, and under the control of the residential

¹ BSI Standard Publication- Trees in Relation to design, demolition and construction-Recommendations 2012

management company, this would not justify the removal of trees, address the proximity of trees to plot four or the resultant future pressure for removal.

12. For the reasons identified above, I conclude that the proposed development would have an unacceptable effect on the character and appearance of the area and on trees within the site and on adjacent land. The development would therefore be contrary to Policies DM1 and DM3 of the Maidstone Local Plan² (MLP) and the National Planning Policy (the Framework). These policies amongst other things require good design, existing trees to be retained where possible and development to respond positively to, and where possible enhance, the local character of the area.
13. Policies SP17 and DM30 of the MLP are referred to, both relate to development within the countryside. Neither party has referred to the site as being located within the countryside and therefore these policies are not relevant to my assessment. Reference is also made to Policy DM9 of the MLP. This policy refers to the conversion, extension or development of a residential property. Given the site does not contain a dwelling, this policy would not be relevant to this decision.

Living Conditions

14. The appeal site is located to the rear of 263a Boxley Road. The rear gardens of 13-18 Rock Road adjoin the eastern side of the site. The existing entrance is at the same ground level as adjacent properties and provides access to a garage located to the rear of 17 Rock Road. Beyond the garage, the site is at a significantly lower level compared to the properties that border it.
15. The proposed development would generate new comings and goings to the site. The dwellings would be accessed from an existing tree lined entrance, orientated perpendicular to the rear of the properties on Rock Road. Given that vehicular headlights would not face the rear of 13-18 Rock Road and any light emitted would be partially screened by trees, vehicular lights would be unlikely to result in disturbance to these dwellings.
16. With reference to potential noise disturbance associated with the increase in activity, the submitted acoustic report identifies that the lowest measure of daytime noise, significantly exceeds the calculated noise level of three vehicles moving in 15 minutes. As such predicted vehicle movements would be below the prevailing noise levels in the surrounding area. As a result, vehicle movement in association with the proposed development would not unacceptably increase noise and disturbance to nearby properties.
17. For the reasons identified above, I conclude that the proposed development would have an acceptable impact on the living conditions of the occupiers of 13a, 14, 15, 16, 17 and 18 Rock Road, 27a Northdown Close and 263a Boxley Road, with reference to noise and disturbance. The development would therefore comply with policy DM1 of the MLP insofar as it seeks to respect the amenities of occupiers of neighbouring properties.

² Adopted 2017

Other Matters

18. The appeal scheme is a result of amendments from the refusal of planning application 22/504957/FULL. These amendments and those in the amended plans submitted, do not address the harm identified.

Planning Balance and Conclusion

19. The impact of the proposed development on the character and appearance of the area and the harm to trees within the site and on adjacent land carries substantial weight in the balance.
20. The proposal would utilise a vacant site in a sustainable location by delivering four additional dwellings in the borough, creating jobs during construction and incorporating technologies to reduce carbon emissions and use renewable energy. These are benefits of the scheme that weigh in favour of the development.
21. Whilst biodiversity enhancements are proposed in the form of landscaping and tree planting, this benefit is offset by the significant removal of trees and the development pressure on retained trees.
22. Given the quantum of development the benefits identified would be limited or short term in nature and they should not come at the expense of the permanent harm to the character and appearance of the area and the harm to trees within the site and on adjacent land. Accordingly, the harm identified would not be outweighed by the benefits identified.
23. Therefore, the proposal conflicts with the development plan read as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

V Goldberg

INSPECTOR