



Appeal Decision

Site visit made on 5 November 2024

by Robert Naylor BSc (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd November 2024

Appeal Ref: APP/U2235/W/24/3337692

169 Loose Road, Maidstone, Kent ME15 7DP

- 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 Thijs Bax of Walbax Ltd against the decision of Maidstone Borough Council.
- The application Ref is 23/503601/FULL.
- The development proposed is for the erection of 2no. chalet bungalows, a two-bay car barn, bin store and cycle racks, with associated access, parking, garden land and biodiversity area.

Decision

1. The appeal is allowed, and planning permission is granted for the erection of 2no. chalet bungalows, a two-bay car barn, bin store and cycle racks, with associated access, parking, garden land and biodiversity area at 169 Loose Road, Maidstone, Kent ME15 7DP in accordance with the terms of the application, Ref 23/503601/FULL, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development cited in the planning application form differs to that contained within the decision notice. There is no evidence that this change was formally agreed. In the interests of clarity, I rely upon the description as contained in the application for the purposes of the heading above and paragraph 1 of my decision. However, I have omitted the phrasing "*alternative scheme to: 21/501894/FULL*" as this is not an act of development under Section 55 of the Town & Country Planning Act 1990 (as amended).
3. On 30 July 2024 the Government published a consultation on proposed reforms to the National Planning Policy Framework (the Framework) and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published.
4. Since the Council issued its decision on the planning application, the new Maidstone Borough Local Plan Review 2021-2038 (MBLP) 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 MBLP policies are LPRSS1, LPRSP2, LPRSP10(A), LPRSP15, LPRHOU2, LPRHOU4, LPRHOU5, LPRQD6, LPRQD7 and LPRTRA4. The appellant has had the opportunity to comment on these new policies.

Main Issues

5. The main issues are the effect of the proposal on the:

- Character and appearance of the area;
- Living conditions of existing residents with specific regard to outlook and privacy;
- Living conditions for future occupiers with specific regard to outlook and private amenity space; and
- Parking provision.

Reasons

Character and appearance

6. The appeal site occupies the rear garden space of 169 Loose Road and consists of an irregular shaped plot adjoining the rear gardens of properties located in Park Way. To the south of the appeal site is an area of open space associated with Park Way Primary School. The surrounding area is mainly residential with a strong suburban feel consisting of mainly two-storey detached and semi-detached properties. There is some variety in terms of the design and materiality of the dwellings in the locality, however there is a strong spatial rhythm and pattern, providing a traditional appearance of properties with front gardens and longer gardens to the rear.
7. Whilst the proposal represents an alternative treatment with additional properties located in a back land location, this has previously been found appropriate through the extant permissions¹. The current proposal seeks a denser form of development to provide 2 x 3 bedroomed chalet bungalows along with associated car parking, bin storage and landscaping works within the same site area.
8. The chalet bungalows have been designed to incorporate living accommodation within the roof space, thus providing a relatively low-level and consistent building height and built form of development within the area, whilst still maintaining residential space standards. Whilst not commensurate with the larger rear gardens that are evident along Park Way and Loose Road, the proposal would provide adequate garden spaces given the irregular shaped site which constrains the overall size and layout of the plot. Nevertheless, these are of a sufficient size to provide a reasonable standard of amenity for future occupiers.
9. The positioning of the proposed dwellings at the rear of the appeal site, tucked in behind the rear boundaries of the properties fronting Loose Road, would provide a discreet siting, difficult to view from wider vantage points including Park Way. Furthermore, the back land location is not an uncommon feature within the locality, as there is a similar development close by in Mulberry Close for 7 bungalows granted permission by the Council². As such, the back land proposal would not be considered cramped or out of keeping in this regard.

¹ Maidstone Borough Council Refs: 21/501894/FULL and 23/505000/FULL

² Maidstone Borough Council Ref: 17/504408/OUT

10. Given the location and relationship with other development nearby, the proposal would satisfactorily integrate into its surroundings. Accordingly, the proposed development would not have an adverse impact on the character and appearance of the area and would accord with the requirements of policies LPRSS1, LPRSP2, LPRSP15, LPRHOU2, LPRHOU4, LPRHOU5, LPRQD6 and LPRQD7 of the MBLP, which among other things, collectively require new development to be of a high standard of design, respectful, proportional and reflect patterns of development and distinct local character. The proposal would also accord with the provisions of the Framework which amongst other things, seeks to secure high quality designs that are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change including increased densities.

Living conditions – Existing residents

11. The irregular shaped site constrains the overall size and layout of the plot, providing an almost triangular site tapering off towards the east. The proposal would be located in close proximity to the tapered boundary, which adjoins the rear of the properties in Park Way. The existing treatment along this boundary consists of fairly dense and established vegetation providing a good screen of the site, albeit the vegetation thins towards the east. The appellant has indicated a desire to retain and enhance the existing vegetation for screening purposes and this could be secured by condition.
12. Given its close proximity to this boundary, I have had regard to whether the development would have an overbearing or dominant impact on outlook from these properties. Whilst glimpse views would be possible, the chalet bungalow design with a relatively low scale and half-hipped roof means that overall, the appeal proposal's height, scale and bulk would not be of a level which would give rise to an undue sense of enclosure or loss of outlook from the rear of the properties in Park Way or their garden areas. Neither would its overall presence significantly reduce the current aspect enjoyed by those occupants to an extent that would be overbearing.
13. In respect to overlooking, the ground floor openings would be screened by the existing boundary surrounding the site. Regarding the upper floor, the only openings fronting Park Way are sun tunnels/roof lights. These are modest high-level openings to primarily provide light and would not lead to any significant overlooking or loss of privacy. Nevertheless, it may be prudent to attach a condition to any approval to remove permitted development rights to ensure that no additional alterations and/or openings could be provided at the roof level to protect the living conditions of these neighbouring properties.
14. The rear dormer windows would face onto the open space at the rear of the site, while the upper floor flank windows are located sufficiently far from any neighbouring property not to provide any significant overlooking issues or loss of privacy. Furthermore, these have been annotated as obscured glazed and this could also be secured by condition.
15. For the reasons above, I conclude that the proposal would not result in harm to the living conditions of the existing occupiers at Park Way with particular reference to overbearing and overlooking impacts. The scheme would be compliant with the relevant sections of MBLP Policies LPRSP15 and LPRHOU4 which amongst other things, are concerned with housing quality and

protecting residential amenity in respect to overlooking and loss of privacy. The proposal is also consistent with the advice in the Framework, which amongst other things, seeks high quality design and a good standard of amenity for all existing and future occupants of buildings.

Living conditions – Future occupiers

16. The plans before me indicate that all rooms benefit from at least one window, which would provide acceptable levels of daylight and sunlight for future occupiers. However, the Council raise concerns in respect to the ground floor windows at the front of Plot 1 as these would have an outlook of the boundary fence only. Furthermore, given the close proximity to this boundary there would be limited scope for additional planting to soften views. I appreciate that these views would be limited, however I am not certain that this would necessarily represent a poor standard of design or outlook, or that the Council has presented sufficient justification to convince me that this would be the case.
17. MBLP policy LPRQD7 requires the rear gardens of new houses to be at least equal to the ground floor footprint and not triangular in shape, in order to meet private open space standards. The supporting text indicates that the space must be sufficient enough to provide an outdoor seating area, small shed, clothes drying area, area of play, and planting space (for trees and shrubs). Further indicating that this can be accommodated in a garden with a 10m depth and the width of the dwelling.
18. The appellant highlights that the 10m provision would be met with regard to both proposed units. Furthermore, the private outdoor space, would be sufficiently sized to enable sitting out, the drying of washing, small storage facilities and would allow for children to play outside. The triangular tip of the site has been annotated as an area preserved for natural habitat, thus not forming part of the formal garden area. Therefore, in squaring off the garden area of Plot 1 this would provide a more useable shape and would be attractive and inviting, because of its overall size and position in relation to the living accommodation. Therefore, the area would provide a functional space appropriate for future occupiers. As such I find no conflict with MBLP Policy LPRQD7 in regard to the provision of open space standards.

Parking provision

19. MBLP Policy LPRTRA4 states that car parking standards for new residential developments will be assessed against the requirements set out in Kent County Council's (KCC) Interim Guidance Note 3 (IGN3). This highlights that for three-bedroomed dwellings the maximum parking standard is for two off-street parking bays. The Council adopts a flexible approach to minimum and maximum parking standards to reflect local circumstances and the availability of alternative modes of transport to the private car. It also seeks to encourage innovative designs that can sufficiently demonstrate that a provision lower than the minimum standard is feasible and would not have any unacceptable adverse impacts on the surrounding locality.
20. Nevertheless, the appellant has sought to provide the maximum standard with two off-street bays for each dwelling in the proposal, along with the provision of an off-street visitor bay. KCC have been consulted as the County Highways Authority (CHA) and have confirmed that the proposal will provide 2 tandem

parking bays in accordance with IGN3. The CHA further confirms that due to the proposals modest size, the site will not generate significant levels of traffic onto the highway network.

21. The access to the site is tight and the provision of car parking and the arrangement of the forecourt is limited. From the details before me, I have not been supplied with a swept path analysis, albeit plans show limited details of a 6m reversing distance behind the proposed parking bays. Nevertheless, despite the tight nature of the proposal the CHA confirms that the scheme provides sufficient space for service vehicles, such as a medium sized delivery vehicle, to enter the site and turn and egress onto the highway in a forward gear. Whilst a refuse vehicle could not access the site the proposal offers a refuse strategy of roadside collection.
22. Furthermore, given the modest size of the development proposed it is likely that drivers would be likely to be moving at a slow speed and to exercise care when manoeuvring within the site. As such, these manoeuvres would not unacceptably compromise the safe and free flow of traffic in this location to the detriment of other highway users. Nor, given such manoeuvres would take place over a private access, would the proposal have an impact on pedestrian and vehicular users of the public highway.
23. Consequently, the proposal would not result in harmful effects on neighbourhood amenity regarding parking. The proposal would therefore accord with MBLP policies LPRTRA4 and LPRSP15 which amongst other things, seek to provide suitable parking standards to safely accommodate proposals avoiding highway safety concerns and local on-street parking problems.

Other Matters

24. The Framework highlights the Government's objective to significantly boost the supply of housing. I note the benefits identified by the appellant in providing new dwellings in a relatively sustainable location towards the Council's housing stock and given the small site, these could be brought forward relatively quickly.
25. The proposal would also provide benefits such as employment opportunities during the construction phase and the benefits that future residents could bring in accessing and supporting local services. Whilst I recognise these benefits, given its small scale the proposed development would make only a modest contribution to the Councils housing supply, and accordingly I attach only limited weight to the benefits it would provide.
26. The appellant also refers to the advice of the Council and its officers during the pre-application process. However, these are not matters for my deliberation in the context of a planning appeal.

Conditions

27. The Council has provided a list of suggested conditions that it considers would be appropriate which have been agreed by the appellant. 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 and where appropriate have added additional conditions.

28. I have imposed the standard time condition and a condition to ensure the development is in accordance with the approved plans in the interests of certainty. In the interests of highway safety and neighbouring amenity given the narrow nature of the access to the site, I have imposed a requirement for a Construction Management Statement, which is necessary to be submitted prior to works commencing.
29. A condition securing on-site ecological enhancement is necessary in order to ensure the development protects and improves biodiversity features of the site. I have imposed a condition in respect to the material specifications, and also a condition for landscaping which are necessary to secure the satisfactory appearance of the development in the interests of the surrounding character and neighbouring amenity.
30. To ensure the dwellings are accessible and are adaptable to the changing needs of households, I have included a condition requiring dwellings are built in accordance with Part M4(2) of the Building Regulations.
31. In regard to the wider sustainability requirements, a condition requiring enhanced water efficiency standards is necessary to ensure relevant compliance with technical standards. I have also added that electric charging points are delivered to enable the use of electric vehicles to further achieve sustainability objectives.
32. Finally, I have attached a condition securing obscured glazing on relevant windows to protect living conditions of neighbouring properties in terms of privacy and a condition restricting permitted development rights also to protect living conditions of neighbouring properties from the proposed development, in terms of privacy and overlooking.

Conclusion

33. There are no material considerations that indicate the development should be determined other than in accordance with the development plan. For the reasons given above and having regard to all other matters raised, the appeal is allowed.

Robert Naylor

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing nos 25230_EX_01A; 25230_PL_02A; 25230_PL_03; 25230_PL_04; 25230_PL_05; 25230_PL_06; 25230_PL_10; 25230_PL_11 and 25230_PL_15A
- 3) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - viii) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.
- 4) The development hereby approved shall not commence above slab level until details of a scheme for the enhancement of ecology on the site has been submitted to the Local Planning Authority for written approval. The scheme shall consist of the enhancement of ecology through integrated methods into the structure of the new dwelling, by means such as swift bricks, bat tubes or bee bricks or alike, and through provision within the site curtilage such as bird boxes, bat boxes, bug hotels, log piles, wildflower planting and hedgehog corridors or alike. The development shall be implemented in accordance with the approved details prior to first occupation of the approved dwelling hereby approved and all features shall be retained and maintained thereafter.
- 5) The development hereby approved shall not commence above slab level until details / samples of the materials to be used in the construction of the external surfaces of the dwellings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details / samples.
- 6) The development hereby approved shall not commence above slab level until a landscape scheme designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012) has been submitted to and approved in

writing by the Local Planning Authority. The scheme shall use predominantly native or near-native species as appropriate and show all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained or removed. It shall also provide details of replacement planting to mitigate any loss of amenity and biodiversity value, the location of any habitat piles of cut and rotting wood and include a plant specification, implementation details, a maintenance schedule and a 5 year management plan.

- 7) All approved landscaping shall be in place prior to first occupation of the approved dwelling. All landscaping shall be carried out during the planting season (October to February). Within five years from the first occupation of the approved dwelling, any landscaping which is removed, fails to establish, dies or become so seriously damaged or diseased that their long term amenity value has been adversely affected shall be replaced in the next planting season with plants of the same species and size as detailed in the approved landscape scheme unless the Local Planning Authority gives written consent to any variation.
- 8) The development hereby approved 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.
- 9) The development hereby approved 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 building shall not be occupied unless this standard has been met and this standard shall be maintained thereafter.
- 10) The dwellings hereby permitted shall not be occupied until the proposed dwelling is provided with a fast charge Electric Vehicle Charging Point (current minimum requirements - 7 kw Mode 3 with Type 2 connector - 230v AC 32 Amp single phase dedicated supply) in accordance with a scheme to be submitted and approved in writing by the Local Planning Authority and thereafter retained and maintained for the lifetime of the development.
- 11) The dwellings hereby permitted shall not be occupied until the windows shown on approved plans 25230_PL_10 and 25230_PL_11 shown as obscured glazed have been fitted with obscured glazing, and no part of that/those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the Local Planning Authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order), no extensions or alterations shall be erected to the roof of the residential development hereby permitted without the prior planning permission of the Local Planning Authority.

END OF CONDITIONS