



Appeal Decision

Site visit made on 22 October 2024

by L Francis BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 December 2024

Appeal Ref: APP/U2235/W/23/3323590

Salts Farm House, 51 Linton Road, Maidstone, Kent ME15 0AH

- 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 G Bernard against the decision of Maidstone Borough Council.
 - The application Ref is 22/504460/FUL.
 - The development proposed is the erection of a self-build chalet style dwelling with car parking, vehicle turning and alterations to existing access.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a self-build chalet style dwelling with car parking, vehicle turning and alterations to existing access at Salts Farm House, Maidstone, Kent ME15 0AH in accordance with the terms of the application, Ref 22/504460/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. Since the council issued its decision on the planning application, the Maidstone Local Plan review 2021 - 2038 (MLP) was adopted in March 2024, and I have taken it into account in my decision. The Council have confirmed the new policy references. The appellant has had the opportunity to comment on the new policies and I have taken their response into account in making my decision.
3. The National Planning Policy Framework (the Framework) was updated in December 2024, during the consideration of this appeal. Insofar as is directly relevant to the appeal, there are no substantive changes. Neither main party were asked for their views and no parties have been prejudiced as a result.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area with particular regard to the prevailing pattern and grain of development; and,
 - whether the site is a suitable site for housing having regard to the adopted spatial strategy.

Reasons

Character and appearance

5. Linton Road runs south from Maidstone through the village of Loose. The area is characterised by a reasonably consistent linear pattern of residential development running along the east side of Linton Road, generally in the form of detached houses set in large plots. This linear development is punctuated by streets leading off Linton Road around which can be found further residential development. Therefore, whilst the prevailing characteristic is linear development there are also pockets of residential development to the east and west of Linton Road.
6. The appeal site comprises the rearmost section of the garden at 51 Linton Road. Beyond the garden to the east the landscape is rural in character, comprising a large paddock and fields beyond with some sporadic residential development.
7. The proposal is for the erection of a chalet style dwelling with an attached single garage with parking area and garden. A new pedestrian and vehicular access would be formed off the existing byway that runs alongside the side wall of the existing garden.
8. The appeal site sits outside any defined settlement boundary, so for the purposes of applying planning policy for new housing the appeal site falls to be considered as development in the countryside, to which MLP Policy LPRSP9 applies. Amongst other things, the policy states that development proposals will not be permitted unless they accord with other policies in this plan and will not result in significant harm to the rural character and appearance of the area. Policy LP3 of the Loose Neighbourhood Plan (2019) includes a map of 'built up area' under which the appeal site falls to be considered under LP3(2B) which aims to ensure new development respects and compliments the rural settlement form, pattern, character and landscape setting.
9. The recent construction of 9 dwellings to the south of the appeal site¹ has changed the pattern and grain of built development in the immediate area. The residential development of the appeal site would be consistent with the density and pattern of development of the new housing to the south and in this context the proposal would not read as an isolated backland development separate from the main built-up area of the village.
10. In views looking back towards Loose from the byway running east-west past the appeal site, the recent housing development is a strong visual presence defining a border with the open countryside to the east. The proposed house would fit with this pattern and grain. I do not consider that the land is 'semi wild' or part of the open countryside as the Council describe. Having had the benefit of a site visit, the appeal site is clearly part of a domestic garden and its development would not read visually as an encroachment upon the open countryside to the east.
11. Residential development at the appeal site has previously been dismissed at appeal on several occasions² and I have had regard to the previous appeal decisions. Whilst I acknowledge that overall, the prevailing pattern of

¹ Planning permission reference 20/505662

² Appeal references: APP/U2235/W/16/3146484, APP/U2235/A/06/2028234 and APP/U2235/A/10/2138374

development in the wider area still has a linear focus, as described above the immediate surroundings of the appeal site have materially changed since the previous appeal decisions by introducing a cluster of residential development immediately to the south of the appeal site. I also note that the previous appeals were determined under former development plans. For these reasons I do not consider that there is a direct comparison to be made between the proposal and the previously dismissed appeals.

12. The form and scale of the house would be consistent with the scale of development in the area. The use of red brick, weatherboarding and a slate tiled roof would fit with the materials of other houses in the area.
13. For the reasons given above, the appeal proposal would be in line with the aims of MLP Policy LPRSP9 and Policy LP3 of the Loose Neighbourhood Plan (2019) insofar as they seek to ensure new development respects and compliments the rural settlement form, pattern and character and would not harm the character and appearance of the area.

Location

14. Whilst the reason for refusal solely referred to the appeal proposal's effect upon the pattern and grain of development in the area, the Council set out in their evidence that the appeal proposal would result in the dwelling being built in an unsustainable location, contrary to the borough's spatial strategy set out in MLP Policy LPRSS1. The appeal site is not located in an area designated for any housing development under this policy. In such areas, the policy states that protection will be given to the rural character of the borough avoiding coalescence between settlements, including Maidstone and surrounding villages.
15. In terms of accessibility of the location, there are bus stops close to the appeal site with regular services to Maidstone centre as well as Hawkhurst, Staplehurst and Coxheath. Linton Road has a pavement and street lighting and would be easily accessible by foot down the byway from the appeal site. Maidstone centre is also within reasonable cycling distance. I acknowledge that the site is within the countryside for the purposes of applying planning policy, the location is however reasonably sustainable given the public transport options available and opportunities for walking and cycling.
16. Given the constrained nature of the site between the housing development to the south, byway to the north and open countryside to the east, the appeal proposal would not contribute to the coalescence between settlements. As set out above, the proposal would not harm the rural character or appearance of the area. I therefore conclude that the proposal would be in line with the overall aims of MLP Policy LPRSS1 where it seeks to protect the rural character of the borough and avoid coalescence between settlements.

Other Matters

Housing supply

17. I accept the Council has demonstrated a 5-year supply of deliverable housing sites and the Council has historically delivered at levels above their housing targets. However, this is not a matter that would in principle weigh against the proposal.

Living conditions

18. In terms of the effect of the proposals upon the living conditions of neighbouring residents, I note the concerns of neighbouring occupiers regarding the potential effect of the proposal on outlook, privacy and light. I am satisfied that there would be sufficient separation from nearby houses both adjacent and opposite, to avoid an unacceptable loss of outlook or loss of daylight or sunlight to any neighbouring residential windows. At first floor level in the proposed house, there would be a bathroom window which would face the rear windows of the housing development to the south. To maintain privacy, a condition requiring the use of obscured glazing in the bathroom window is necessary.

Highway safety

19. I note that the highway authority has not raised any objection to the principle of a new dwelling in this location and that the proposed parking spaces comply with the standards set out in the development plan. The drawings show that there would be some alterations to the access to improve visibility. I have no reason to disagree with the Council's assessment that the proposal would not have any material impact upon the safety or operation of the public highway.

Heritage

20. The Loose Valley Conservation Area (CA) lies adjacent to the appeal site. Although the appeal site lies outside the CA, it is located within the setting of the CA. I consider the significance of the CA to be derived from the pattern and style of development showing the industrial and residential evolution of the village, and rural views into and out of the CA. The Framework requires consideration of any harm to, or loss of, the significance of a designated heritage asset, including from development within its setting.
21. The CA boundary runs adjacent to many rear gardens of the houses running along Linton Road, along with the 9 recently developed houses to the south of the appeal site. Given the boundary of the CA adjacent to existing housing on its north and south sides in particular, the addition of a further dwelling would preserve the setting of the CA.

Other

22. I note the appellant's comments regarding procedural matters and whether the planning application should have been determined by the Council's planning committee. However, this is a matter between the main parties and has no bearing on my consideration of the appeal.

Conditions

23. The Council has provided some suggested conditions which I have considered against advice in the Framework and Planning Practice Guidance; as a consequence I have amended or omitted some of the suggested wording. I have removed the Council's suggested condition 10 regarding tree protection measures, which I have incorporated into condition 6 regarding landscaping. I have amended the wording to conditions 5 and 6 (Council's suggested conditions 4 and 5) to remove reference to other policy documents which I do not consider are necessary for the condition to achieve their aims.

24. I have attached the standard time limit condition (1) and a plans condition (2) as this provides certainty. Condition 3 restricts hours of construction works and is necessary to protect the living conditions of nearby residents. Condition 4 concerning materials is necessary to ensure a satisfactory appearance.
25. Condition 5 requiring full details of any external lighting is necessary in the interests of ensuring a satisfactory appearance and protecting wildlife. Conditions 6, 7 and 8 are necessary in the interests of ensuring a satisfactory appearance and enhancing biodiversity. Condition 9 is necessary to ensure satisfactory living conditions for future occupiers. Condition 10 is necessary in the interests of enhancing biodiversity. Condition 11 is required to protect the privacy of residents adjacent.

Conclusion

26. I have found that the proposal is in line with the development plan read as a whole, and the material considerations in this case do not indicate that a decision should be taken otherwise than in accordance with it. For the reasons set out above, the appeal is allowed.

L Francis

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 the following approved plans: site location plan, LRM/PDD.01-P1, LRM PDD 02 P1.
3. Demolition or construction works shall take place only between 08.00 to 18.00 on Monday to Friday, 08.00 to 13.00 on Saturday, and shall not take place at any time on Sundays or on Bank or Public Holidays.
4. No development above ground level shall take place until written details and samples of all external facing and surfacing materials including those to be used for hard surfacing, parking and turning areas have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
5. Prior to the installation of external lighting (whether permanent or temporary), full details including height, design, location and intensity shall be submitted to and approved in writing by the local planning authority. The lighting installation shall then be carried out in accordance with the approved details and maintained as such thereafter.
6. No development above ground level shall take place until a hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - (a) details of all existing trees, hedges and blocks of landscaping on, and immediately adjacent to, the site and indicate whether they are to be retained and set out measures for their protection throughout the course of development.
 - (b) provide details of new on-site planting in a planting specification (location, spacing, species, quantity, maturity),
 - (c) provide landscape implementation details and timetable,
 - (d) provide a five-year landscape management plan.
7. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
8. No development above ground level shall take place until details of all fencing, walls and other boundary treatments have been submitted to and approved in writing by the local planning authority with the details including gaps at ground level to allow the passage of wildlife. The development shall be carried out in accordance with the approved details before the first occupation of the approved dwelling and maintained as such thereafter.

9. No development above ground level shall take place until details of refuse storage facilities and collection point 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 before the first occupation of the approved dwelling and maintained as such thereafter.
10. No development above ground level shall take place until a scheme for enhancement of biodiversity on the site has been submitted to and approved in writing by the local planning authority. The scheme shall consist of the enhancement of biodiversity through the use of methods integrated to the building structure as well as enhancements over the wider site including the use of swift bricks, bat tubes or bricks. The development shall be carried out in accordance with the approved details prior to first occupation of the approved dwelling and maintained as such thereafter.
11. The first-floor bathroom window in the south facing elevation shall be obscure glazed and restricted to opening no more than 150mm and thereafter maintained as such, where any part of the window falls below 1.7m of finished floor level.