



Appeal Decision

Site visit made on 5 December 2024

by S M Holden BSc (Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2025

Appeal Ref: APP/U2235/W/24/3344835

Land Northeast of Redwood Glade, Forge Lane, Bredhurst ME7 3JX

- 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 David Olver and Mrs Gerarda Everett against the decision of Maidstone Borough Council.
 - The application Ref is 23/501986/FULL.
 - The development proposed is the construction of 3No. new dwellings including amending access into the site from access track and associated amenities.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of 3No. new dwellings, including amending access into the site from access track, and associated amenities at Land Northeast of Redwood Glade, Forge Lane, Bredhurst ME7 3JX, in accordance with the application Ref: 23/501986/FULL, subject to the conditions set out in the attached schedule.

Applications for costs

2. An application for costs was made by Mr Olver and Mrs Everett against the decision of Maidstone Borough Council. This application is the subject of a separate decision.

Preliminary Matters

3. In March 2024, after this application was determined the Council adopted the Maidstone Borough Council Local Plan Review 2021-2038 (MBCLPR). Consequently, policies from the previously adopted Maidstone Borough Local Plan (MBLP), referred to in the Council's decision notice have been superseded. I have determined the appeal in accordance with current planning policies. As these are referred to throughout the Appellants' statement, I am satisfied that both parties have had the opportunity to comment on the implications of changes to policy on the appeal proposal.
4. All Areas of Outstanding Natural Beauty (AONBs) have been renamed as National Landscapes. I therefore refer to the Kent Downs AONB as the Kent Downs National Landscape (KDNL) in this decision letter.

Main Issues

5. The main issues are:
 - a) The suitability of the site's location for residential development in relation to its accessibility to local facilities and services:

- b) The effect of the proposal on the character and appearance of the area, having particular regard to its location within the KDNL:
- c) Whether the scheme would provide satisfactory living conditions for future occupants in respect of noise:

Reasons

Suitability of location

- 6. The Council's spatial strategy seeks to direct development towards towns and village locations where employment, key services and facilities, together with a range of transport choices, are available or accessible. The settlement hierarchy set out in Policy LPRSS1 the MBCLPR makes no reference to Bredhurst. Whilst the village has a primary school, most of the facilities that existing and future residents require are found in larger settlements to the north of the M2. Access to these would require a walk along unlit, rural roads (including Chapel Lane), with no footways and where no improvements to encourage use of active travel modes are proposed. The practical reality is that both existing residents of the village and future occupants of dwellings on the appeal site would find it safer and more convenient to use a car to access the services and facilities they use on a daily and weekly basis.
- 7. I therefore conclude that the site is not a suitable site for additional residential dwellings due its lack of accessibility by modes other than the car. The proposal would conflict with the Council's spatial strategy as set out in Policy LPRSS1 of the MBCLPR.
- 8. However, in respect of accessibility, the Council has permitted other residential developments in the village in spite of its relatively poor range of services and lack of transport choices. Furthermore, accessibility was not a main issue in any of the schemes approved on appeal which have been put to me, even though the site was outside the village boundary. Nevertheless, I will take the site's accessibility into account in the planning balance.

Character and appearance

- 9. The appeal site lies within the KDNL and outside the settlement boundary of Bredhurst. It is therefore in the countryside for the purposes of planning policy and in an area designated for its landscape and scenic beauty. Policy LPRSP9 will not permit proposals that harm rural character and appearance and requires great weight to be given to the conservation and enhancement of the KDNL. The Maidstone Landscape Character Assessment identifies the wider area as falling within the Bredhurst to Bicknor North Down Landscape Character Area where the aim is to improve and conserve character where its condition is poor.
- 10. However, the site was previously a builder's yard and is enclosed by established residential development on three sides and, with the exception of a small area of open grassland, the M2 to the north. It is not visible when travelling south on Forge Lane towards the village due to the extensive tree screen along the banks enclosing the M2. Even in winter months it is also effectively screened from viewpoints on the north side of the motorway. Whilst technically within the KDNL, the site is both contained and enclosed. Consequently, it has a strong relationship with the built form of the village and

is separated from the open and undeveloped countryside of the remainder of the protected landscape by the M2.

11. The Council was seeking a Landscape and Visual Impact Assessment (LVIA) to enable it to better assess the cumulative effects from creeping development in this area. However, the proposal is for only three dwellings, and I consider that the assessment in the officer's report together with the Appellants' appeal statement provided me with sufficient information to undertake an adequate appraisal of the scheme. From this and my observations, I am satisfied that the site's contribution to the landscape and scenic beauty of the KDNL is minimal, and the proposal would not contribute to harmful, cumulative erosion of the surrounding undeveloped landscape countryside.
12. The village of Bredhurst is characterised by dwellings which exhibit a considerable variety of styles and materials, including modern detached 2-storey houses, traditional semis, and modest bungalows. The proposal, for dwellings of a contemporary style would represent an extension to development which has already taken place to the rear of Forge Lane and along Redwood Glade. Although it would introduce the bulk and mass of permanent buildings onto the site, the proposed designs would not be out of character with the village and would assimilate comfortably into their surroundings. A residential use would consolidate the existing residential development in the immediate vicinity but would be more compatible with this surrounding use than the site's previous commercial use as a builder's yard. Consequently, there would be little or no perception that the scheme would represent an encroachment into the countryside.
13. For all these reasons, I conclude that the proposal would conserve the landscape and scenic beauty of the KDNL and would not harm the character and appearance of the area. It would therefore comply with Policies LPRSP9 and LPRQD4 of the MBCLPR which require development in the countryside to maintain local distinctiveness and not to harm the rural character and appearance of the area.

Noise

14. The appeal site is close to the M2 where noise from traffic would affect the living conditions of future occupants. In particular noise would restrict the ability of future residents to enjoy outdoor amenity space. Furthermore, to avoid sleep disturbance it could prevent future residents opening windows at night during the summer months. In the absence of Noise Assessment Report, the Council could not be satisfied that the acoustic environment indoors and outdoors would be within acceptable tolerances.
15. The Appellants provided a noise report with the appeal which indicated that observed noise levels on the site during the day were 53dB_{L_{Aeq}}, and at night were 50dB_{L_{Aeq}} and 58dB_{L_{Amax}}. Although the observed outdoor noise levels were a little above the desired limit of 50dB_{L_{Aeq}} they were below the upper acceptable limit of 55dB_{L_{Aeq}}. This would suggest a low to medium adverse effect on the living conditions of future residents when using external amenity space. However, these figures significantly exceed the recommended acceptable noise levels within the living areas and bedrooms of homes. These are 35-40dB_{L_{Aeq}} for the daytime living areas and 30dB_{L_{Aeq}} for bedrooms at night. The Appellants' noise report therefore recommended that double glazing (4-16-4) should be installed to provide appropriate sound attenuation.

16. The Council has not commented on the noise assessment report or these mitigation measures. However, I see no reason why appropriate sound mitigation measures could not be secured by imposition of an appropriately worded condition, especially given that this has been the approach on other nearby development.
17. I therefore conclude that, subject to appropriate mitigation measures being secured by condition, the proposal would provide satisfactory living conditions for future occupants. It would therefore comply with Policy LPRSP15 (point 5) which requires development to ensure that future occupants are not exposed to excessive noise.

Other Matters

18. The Council also refused the scheme due to concern about the potential for harm to protected species. However, this appears at odds with the officer report which referred to the Preliminary Ecological Assessment (PEA) and stated that the proposal accords with development plan. Although concerns were raised regarding the potential for harm to Great Crested Newts and other reptiles, additional surveys confirmed that the site is a poor habitat for reptiles. Nevertheless, it was suggested that it would be necessary to agree a Reasonable Avoidance Measures Method Statement prior to the commencement of any works on site. I consider this could be addressed within the condition requiring agreement to a Construction Method Statement.
19. There is an open area of land within the Appellants' ownership which lies between the appeal site and the M2 and would be secured in perpetuity for the purposes of biodiversity enhancement by a Unilateral Undertaking (UU). The Council has confirmed that it had no comments on its provisions. I have therefore had regard to the UU in reaching my decision.
20. The Council was satisfied that there would be no harmful loss of privacy for existing adjacent occupiers, and I see no reason to take a different view. Land ownership is not a matter for me to address in the context of this appeal which is confined to consideration of the planning merits of the proposal.

Planning Balance

21. I have found that the proposal would conserve the landscape and scenic beauty of the KDNL and not result in material harm to the character and appearance of the area. The living conditions of future occupants could be adequately protected through provision of sound attenuating double glazing which could be secured by condition. Protected species could be safeguarded as part of a pre-commencement condition requiring a construction method statement. Biodiversity enhancements could be secured by a combination of conditions and the UU. In all these respects the proposal would comply with the development plan.
22. On the other hand, there would be conflict with the development plan arising from the site's poor accessibility to facilities and services by non-car modes. However, having regard to other residential development which has been permitted in the surrounding area, I give this limited weight in my assessment and consider that the benefits that would accrue from the provision of three dwellings would outweigh this harm. I therefore conclude that the appeal should succeed.

Conditions

23. I have considered the lists of conditions suggested by the Appellants and the Council having regard to paragraph 56 of the National Planning Policy Framework and the advice of the Planning Practice Guidance (PPG). I have made minor amendments to the wording where necessary for the sake of clarity and precision. Pre-commencement conditions can only be imposed when there is a clear justification. I am satisfied that this requirement has been met and the wording of these has been agreed by the Appellants.
24. In addition to the standard time limit, a condition specifying the plans is necessary in the interests of certainty. A pre-commencement condition to agree a Construction Method Statement is justified to prevent harm to protected species during site clearance, and to protect the living conditions of neighbours during the construction period. Measures which have been identified to protect trees throughout the construction period can also be secured by condition. Conditions to confirm site and slab levels, and agree details of surface and wastewater drainage before construction begins, are justified in the interests of certainty and to prevent flood risk.
25. Conditions requiring agreement to the external materials for the dwellings, the timely agreement to a landscaping plan, its implementation and its future management are all necessary in the interests of the appearance of the development. No external lighting should be introduced which has not been previously approved by the local planning authority to safeguard protected species.
26. Before first occupation of the dwellings, implementation of measures to enhance on-site ecology are justified to promote biodiversity. Similarly, it is necessary that the parking and turning areas are provided and retained to ensure that the development functions effectively. To protect the living conditions of future occupants it is essential that noise mitigation measures are implemented before the dwellings are occupied and retained thereafter.
27. Conditions requiring reductions in future water consumption and incorporating renewable or low-carbon energy sources are justified in the interests of promoting sustainability and mitigating the effects of climate change.
28. Restricting the hours of construction is necessary to prevent harm to the living conditions of residents in the surrounding properties.
29. A Phase 1 Contamination Risk Assessment was submitted with the application and did not raise any concerns. I therefore concur with the Appellants that a condition requiring a full phase 2 investigation has not been justified.

Conclusion

30. The proposal would result in limited conflict with the development plan. However, other material considerations indicate that a decision should be made other than in accordance with the development plan. I therefore conclude that the appeal should be allowed.

S M Holden

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:

19-34-30 Rev A	Site Location Plan
19-34-31	Proposed Site Location Plan
19-34-32 Rev A	Proposed Site Plan
19-34-33 Rev A	Proposed Site Plan
19-34-34 Plot 1	Floor Plans
19-34-35 Plot 1	Roof Plan and Elevations
19-34-36 Plot 1	Elevations
19-34-37 Rev A	Plot 2 Proposed Floor and Roof Plans
19-34-38 Rev B	Plot 2 Proposed Elevations
19-34-39	Plot 2 Garage Plans and Elevations
19-34-40	Plot 3 Floor and Roof Plans
19-34-41 Rev A	Plot 3 Proposed Elevations
19-34-42	Colour Elevations
19-34-43	Existing Elevations
5949-LLB-XX-XX-DR-Ab-0002-S4-P03	Tree Protection Plan
	Topographical Survey
- 3) The development hereby permitted shall not commence, including any works of site clearance, until a Construction Method Statement (CMS) has been submitted to and approved in writing by the local planning authority. The CMS 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) Erection and maintenance of measures to secure the site during the construction period:
 - v) Wheel washing facilities:
 - vi) A scheme for recycling and disposing of waste arising from the construction works.
- 4) The measures to protect trees during the construction period shown on Drawing No 5949-LLB-XX-XX-DR-Ab-0002 Rev P03 shall be put in place and retained throughout the construction of the development hereby permitted.
- 5) The development hereby permitted shall not commence until details of existing site levels and proposed slab levels have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved levels.

- 6) The development hereby permitted shall not commence until details of a sustainable drainage scheme for the disposal of surface water and wastewater has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to first occupation of any of the approved dwellings and thereafter managed and retained in accordance with the approved details.
- 7) No development beyond the construction of foundations shall take place until details of the external finishing materials to be used on the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority, and works shall be implemented in accordance with the approved details.
- 8) No development beyond the construction of foundations shall take place until details have been submitted to the Local Planning Authority and approved in writing, setting out measures that will be taken to incorporate sustainable construction features such as water conservation and recycling, renewable energy production including solar thermal and/or solar photo voltaic installations. Upon approval, the details shall be incorporated into the development in accordance with the approved details prior to the first occupation of any dwelling.
- 9) At the end of the first planting season (October to February) following first use of the first dwelling hereby permitted landscaping shall be in place that is in accordance with a landscape scheme that shall have previously been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall:
 - i) be designed in accordance with the principles of the Council's Landscape Guidelines (Maidstone Landscape Character Assessment Supplement 2012):
 - ii) 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:
 - iii) provide details of additional native screening planting:
 - iv) provide a planting schedule (including location, planting species and size):
 - v) provide implementation details and a 5-year management plan.
- 10) All planting, seeding, turfing or other landscaping specified in the approved landscape details shall be completed by the end of the first planting season (October to February) following first occupation of the approved development. Any of the approved landscaping which fails to establish or any trees or plants which, within five years from the first occupation of the development are removed, die, 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.
- 11) Prior to first occupation of the development hereby permitted measures for the on-site enhancement of ecology shall be in place in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the enhancement of ecology through integrated methods into the design and

appearance of the building structure (where possible) by means such as swift bricks, bat tube or bricks and through provision within the site curtilage of measures such as bird boxes, bat boxes, bug hotels and a habitat log.

- 12) No external lighting shall be installed until a detailed scheme of lighting has been submitted to and approved in writing by the Local Planning Authority. This scheme shall take note of and refer to the Institute of ILP Guidance Note 01/21 The Reduction of Obtrusive Light (and any subsequent revisions) and shall include a layout plan with beam orientation and a schedule of light equipment proposed (luminaire type; mounting height; aiming angles and luminaire profiles) and an ISO lux plan showing light spill. The scheme of lighting shall be installed, retained, and operated in accordance with the approved scheme.
- 13) Prior to the first occupation of any of the dwellings hereby approved, the scheme of noise mitigation measures recommended in the Noise Impact Assessment by MRL Acoustics MRL/100/2080.1v1 May 2024 shall be completed in their entirety and in complete accordance with the report and shall thereafter be retained.
- 14) Prior to first occupation of any dwelling hereby permitted the areas marked as vehicle parking and 'plants' on approved drawing 19-34-31 (Proposed Site Location Plan) shall be provided and thereafter retained as annotated for the lifetime of the development for vehicle parking for the occupants of the approved development and as landscaped areas.
- 15) The development shall be designed to achieve a water consumption rate of no more than 110 litres per person per day, and the dwellings shall not be occupied unless the notice for the dwellings of the potential consumption of water per person per day required by the Building Regulations 2015 (as amended) has been submitted to and agreed in writing by the Local Planning Authority.
- 16) No demolition/construction activities shall take place, other than between 0800 to 1800 hours (Monday to Friday) and 0800 to 1300 hours (Saturday) with no working activities on Sundays or Bank Holidays.

End of Schedule of Conditions