

REFERENCE NO - 22/503943/FULL		
APPLICATION PROPOSAL Formation of a new maintenance access (resubmission of 21/506304/FULL).		
ADDRESS Land off Bull Lane Stockbury Kent ME9 7UB		
RECOMMENDATION: REFUSE PLANNING PERMISSION		
SUMMARY OF REASONS FOR RECOMMENDATION		
<ul style="list-style-type: none"> The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF). The application fails to demonstrate that the proposal would not have an adverse impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This is contrary to policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021). The application fails to demonstrate that the proposal would not have a severe adverse impact on highway safety in terms of the visibility for vehicle divers accessing and egressing the site. This would be contrary to the aims of Policy DM1 of the Maidstone Local Plan (2017) and the aims of the National Planning Policy Framework (2021). 		
REASON FOR REFERRAL TO COMMITTEE Call in from Councillor Garter due to overwhelming support for the application from local residents.		
WARD North Downs	PARISH/TOWN Stockbury	COUNCIL APPLICANT Mr. Clive Morris AGENT Kent Planning Consultancy Ltd
CASE OFFICER: Jake Farmer	VALIDATION DATE: 07/09/22	DECISION DUE DATE: 01/06/23 (EOT)
ADVERTISED AS A DEPARTURE: No		

Relevant Planning History

21/506304/FULL - Formation of a new maintenance access. Refused on 04 Mar 2022 for the following reasons:

- The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which*

would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).

2. The submission fails to demonstrate that the proposal would not have an adverse harmful impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This would be contrary to the aims of policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).

22/504726/FULL - Erection of a detached dwelling with associated garden, access, parking and landscaping and biodiversity enhancements. – Refused for the below reasons:

1. The proposed 3-bedroom house, together with the change of use of agricultural land to domestic garden land, would have a detrimental urbanising impact on the existing intrinsic character of the countryside consisting of an open rural landscape. **The proposal fails to contribute positively to the conservation and enhancement of this nationally important protected landscape with the harm increased by the formation of the new access through the existing vegetated front boundary** and domestic paraphernalia in this countryside location in the Kent Downs AONB, and the proposal is contrary to policies SS1, SP17, DM1, DM30 and DM33 of the Maidstone Borough Local Plan (2017), and the Kent Downs AONB Management Plan and the National Planning Policy Framework (2021).
2. The proposed 3-bedroom house is located in an unsustainable location where future occupiers would be heavily reliant on the private motor vehicle to travel for their day to day needs. This would be contrary to the aims of sustainable development as set out in in Policies SS1, SP17, and DM1 of the Maidstone Borough Local Plan (2017), and the National Planning Policy Framework (2021).

MAIN REPORT

1. DESCRIPTION OF SITE

- 1.01 The application site is on the west side of Bull Lane. Bull Lane is a classified road. This section of Bull Lane is of rural character bounded by roadside verge mature hedgerows and trees. Further to the west, the application site links to an area of open field which is a former orchard.
- 1.02 For the purposes of the Maidstone Borough Local Plan (2017) the site is in the countryside, and in the Kent Downs Area of Outstanding Natural Beauty (AONB). Nettlestead House (Grade II listed), is circa 40 metres south of the application site on the opposite side of Bull Lane.

2. PROPOSAL

- 2.1 The application involves the formation of a new maintenance access and service track

3. POLICY AND OTHER CONSIDERATIONS

Maidstone Borough Local Plan 2017 SS1, SP17, DM1, DM3, DM4, DM30
National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)
Kent Downs AONB Management Plan 2021-2026 Policies
Maidstone Landscape Character Assessment (amended 2013)
Maidstone Landscape Capacity Study: Sensitivity Assessment - January 2015

Maidstone Borough Council – Local Plan Review, draft plan for submission (Regulation 22) dated October 2021.

The Regulation 22 draft is a material consideration however weight is currently limited, as it is the subject of an examination in public that commenced on the 15 May 2023 (Stage 2 hearings ongoing). The relevant polices in the draft plan are as follows: LPRSP15, LPRQ&D4, LPRSS1, LPRSP9

4. LOCAL REPRESENTATIONS

Local Residents:

- 4.01 18 local representations have been received in support for the following summarised reasons:
- The access would not be detrimental to the character and appearance of the area.
 - The proposal is well-designed.

5. CONSULTATIONS

KCC Highways

- 5.01 Objection on the basis that the application fails to demonstrate that the proposal is acceptable in terms of highway safety.

AONB Unit

- 5.02 Objection due to the detrimental harm to the rural character of the historic Bull Lane.

KCC Ecological Advice Service

- 5.03 Objection on the basis that the application fails to demonstrate that the proposal is acceptable in terms of the impact on biodiversity.

6. APPRAISAL

Main issues

- 6.01 The key issues for consideration are:
- Character and appearance
 - Ecology and biodiversity
 - Transport and highways

Assessment

- 6.02 The site is in the countryside as defined by the Maidstone Borough Local Plan (2017).The starting point for assessment of applications in the countryside is Local Plan Policy SP17 of the Maidstone Local Plan (2017).
- 6.03 Policy SP17 of the Maidstone Local Plan (2017) states that development proposals in the countryside will not be permitted in the countryside unless:
- a) they do not result in harm to the character and appearance of the area and
 - b) they accord with other Local Plan policies.

SP17 a) Character and appearance

Countryside and landscape character

- 6.04 Supporting text to Policy SP17 advises 'The countryside has an intrinsic character and beauty that should be conserved and protected for its own sake.
- 6.05 Policy DM1(ii) states that the design should "Respond positively to, and where possible enhance, the local, natural...character of the area....". Policy DM30 states that development should maintain, and where possible, enhance the local distinctiveness of an area. Policy

DM30 (iiii) says that proposals will not be permitted where they result in unsympathetic change. Similarly, policy DM3 seeks to protect the visual character of Maidstone landscape.

- 6.06 The application site is located within the Bredhurst and Stockbury Downs Landscape Character Area which itself is included within the Dry Valleys and Downs Borough wide Landscape Character Area. Within these areas it is recommended that efforts should be made to conserve the "species rich hedgerow boundaries and promote enhanced species diversity within hedgerows where this has been weakened".
- 6.07 The Landscape Character Assessment also advises that one of the key characteristics of the Bredhurst and Stockbury Downs Landscape Character Area is its prevalence of very narrow lanes.
- 6.08 The front boundary of the application site consists of a substantial hedgerow and mature trees. This boundary makes a significant contribution to the visual appearance and character of the area, and the wider countryside.
- 6.09 The ground level on the application site is higher than the Bull Lane carriageway. The proposal would break up the existing bank and hedgerow with an engineered access and hard surfaced driveway. A 4.2 metre section of the hedgerow along Bull Lane would be removed in addition to some of the steep historic bank which gives the rural lane its traditional sunken character.
- 6.10 Having considered the above, the proposed new access by virtue of its prominent location, the loss of the hedgerow along the frontage to Bull Lane, would have an urbanising impact on the character of the area. The loss of well-established hedgerow and regrading of the bank would cause unacceptable visual impact to the character and appearance of the countryside.

Impact on Kent Downs AONB

- 6.11 The site is in the Kent Downs AONB which is a nationally important landscape. Designation as an AONB confers the highest level of landscape protection with the area providing amenity space and accommodating a diverse range of wildlife and biodiversity. Policy SP17 requires new development in the AONB to demonstrate that it meets the requirements of policy and the Kent Downs AONB Unit's design guidance.
- 6.12 The AONB Management Plan describes local character as including species-rich hedgerows and road verges, headlands, and the sunken lanes of the Downs are a special, diverse and distinctive feature. Often the road verges and hedges are rich in plant and animal diversity, providing important and very beautiful habitats and connectivity.
- 6.13 One of the main issues identified in the AONB Management Plan is the reinforcement of the special historic landscape character and the local distinctiveness of ancient routeways through the statutory planning process. The AONB Unit notes that the new access would punch through the existing bank and hedgerow with an engineered access and hard surfaced driveway. While a new hedgerow would be planted, it would be set back eroding the sense of enclosure experienced along the lane. The regraded and positioned bank would similarly fail to reflect historic landscape character, resulting in harm to the rural character and failing to conserve or enhance the AONB.
- 6.14 The Kent Downs AONB Unit has stated that the proposal would result in a detrimental change to the rural character of the historic Bull Lane. The proposal would result in harm to the rural character and would fail to conserve or enhance the nationally important character of the Kent Downs AONB.

SP17 b) Accordance with other Local Plan policies

- 6.15 Other relevant Local Plan policies include DM1 (Principles of good design), DM3 and DM30 (Design principles in the countryside).

Polices DM1 and DM3 - Ecology and biodiversity

- 6.16 The application site is identified as supporting Priority Habitat (Traditional Orchard) under Section 41 of the Natural Environment and Rural Communities Act (2006). This is defined as areas with a range of semi-natural habitat types that were identified as being the most threatened and requiring conservation action.
- 6.17 Policy DM1 sets out that development should respond to the location of the site and sensitively incorporate natural features such as trees, and hedges worthy of retention. Further, DM1(v) states that particular attention should be paid in rural areas and seeks the retention and addition of native planting that is appropriate to the local landscape character and reflects the natural characteristics of the area. DM1(ii) also requires development to respond positively to local natural and historic character. Policy DM3 seeks to protect positive landscape character, veteran trees, trees with significant amenity value, and important hedgerows from inappropriate development.
- 6.18 The NPPF (para 174) states that planning decisions should contribute to and enhance the natural and local environment providing net gains for biodiversity. Opportunities to improve biodiversity in and around developments should be integrated as part of their design. In general terms, both national and local planning policy and guidance seek to resist the loss of mature hedgerows that have the potential to provide habitats for various species and utilise the site for foraging and commuting.
- 6.19 The proposal involves the loss of a stretch of approximately 4.2 metres of mature hedgerow which has the potential to support a number of species. The application does not include either an Arboricultural survey, a Hedgerow Assessment, or information relating to potential harm to hazel dormouse, roosting bats, great crested newts and reptiles. KCC Ecological Advice Service have objected due to the failure of the application to demonstrate that the proposal will not harm biodiversity.
- 6.20 It is concluded that the application fails to demonstrate that the proposal would be acceptable in terms of adverse impact upon the ecological value of the site and biodiversity. The proposed development would be contrary to policies DM1 and DM3 of the Local Plan (2017) and the NPPF.

Policy DM1 - Transport and highway impact

- 6.21 DM1 (ix) says that development should safely accommodate the vehicular and pedestrian movement generated by the proposal on the local highway network and through the site access. The NPPF (para 110(b)) requires development to ensure that 'safe and suitable access to the site can be achieved for all users'.
- 6.22 The visibility splays annotated on drawing 5630-01 show visibility lines through the existing mature hedgerows, thereby severely limiting visibility for vehicles egressing the site onto the narrow Bull Lane. The application does not demonstrate that vehicles will be able to safely leave the site.
- 6.23 KCC Highways have objected on the basis that the application has failed to demonstrate that the proposal is acceptable in terms of highway safety. KCC Highways have reaffirmed their position following further consultation.
- 6.24 The application does not demonstrate that vehicles can safely enter and leave the site and as a result the proposals would result in an unacceptable impact upon highway safety. The proposed development is in conflict with the provisions set out within the Local Plan (2017) and the NPPF.

PUBLIC SECTOR EQUALITY DUTY

- 6.25 Due regard has been had to the Public Sector Equality Duty, as set out in Section 149 of the Equality Act 2010. It is considered that the application proposals would not undermine objectives of the Duty.

CONCLUSION

- 6.26 The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).
- 6.27 The application fails to demonstrate that the proposal would not have an adverse impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This is contrary to policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).
- 6.28 The application fails to demonstrate that the proposal would not have a severe adverse impact on highway safety in terms of the visibility for vehicle divers accessing and egressing the site. This would be contrary to the aims of Policy DM1 of the Maidstone Local Plan (2017) and the aims of the National Planning Policy Framework (2021).

7. RECOMMENDATION REFUSE PLANNING PERMISSION for the following reasons:

- 1) The proposed new vehicle access by virtue of the loss of a substantial stretch of existing well-established hedgerow in this prominent location in an area of national landscape importance, and associated regrading of the bank along the Bull Lane frontage would have a detrimental urbanising impact on the streetscene and the surrounding rural area. The proposal would result in unacceptable visual harm to the character and appearance of the countryside which would be contrary to the objectives of designation of the Area of Outstanding Natural Beauty where great weight should be given to conserving and enhancing the areas natural beauty. As such, the development is contrary to policies DM1, DM3, DM30, and SP17 of the Maidstone Borough Local Plan (October 2017), policies SD1 and SD2 of the Kent Downs AONB Management Plan 2021-2026 and section 12 and 15 of the National Planning Policy Framework (NPPF).
- 2) The application fails to demonstrate that the proposal would not have an adverse impact on protected species including in terms of the loss of the hedgerow and the regrading of the bank. This is contrary to policies DM1 and DM3 of the Maidstone Local Plan (2017); Paragraph 99 of Government Circular (ODPM 06/2005) Biodiversity and Geological Conservation - Statutory Obligations & Their Impact Within the Planning System; and the aims of the National Planning Policy Framework (2021).
- 3) The application fails to demonstrate that the proposal would not have a severe adverse impact on highway safety in terms of the visibility for vehicle divers accessing and egressing the site. This would be contrary to the aims of Policy DM1 of the Maidstone Local Plan (2017) and the aims of the National Planning Policy Framework (2021).