



## Appeal Decision

Site visit made on 12 October 2023

**by R Lawrence MRTPI, BSc (Hons), PGDip (TP)**

**an Inspector appointed by the Secretary of State**

**Decision date: 4<sup>th</sup> December 2023**

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### **Appeal Ref: APP/U2235/W/23/3321211**

### **Anerley, Forge Lane, Bredhurst, Kent ME7 3JW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs M Dorrington against the decision of Maidstone Borough Council.
  - The application Ref 22/505361/FULL, dated 10 November 2022, was refused by notice dated 29 March 2023.
  - The development proposed is for the demolition of existing garage and erection of a single dwellinghouse with associated landscaping.
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### **Decision**

1. The appeal is allowed and planning permission is granted for the demolition of existing garage and erection of a single dwellinghouse with associated landscaping at Anerley, Forge Lane, Bredhurst, Kent ME7 3JW in accordance with the terms of the application, Ref 22/505361/FULL, dated 10 November 2022, subject to the conditions in the attached schedule.

### **Preliminary Matter**

2. On 22 November 2023, all areas in England and Wales designated as an Area of Outstanding Natural Beauty (AONB) were retitled National Landscapes. There has been no change to the legal designation and policy status of these areas. For the sake of consistency and legibility with the evidence submitted I have referred to the Kent Downs AONB rather than the Kent Downs National Landscape in my decision.

### **Main Issue**

3. The main issue is the effect of the development on the character and appearance of the area, including the effect on the Kent Downs Area of Outstanding Natural Beauty.

### **Reasons**

4. The appeal site is part of the residential garden serving Anerley, with its own access from Forge Lane via a track. The site is set behind a row of residential properties which front onto Forge Lane and lies adjacent to two newly constructed two-storey dwellings. The site lies within the village of Bredhurst, within the Countryside. Bredhurst lies outside of the settlement boundary and is not identified as a settlement within the Maidstone Local Plan (LP), as a result it is not a focus for new residential development and a restrictive approach to development applies. The site also falls within the Kent Downs Area of Outstanding Natural Beauty (AONB) and the National Planning Policy Framework (the Framework) states that great weight should be given to

conserving and enhancing its landscape and scenic beauty, which has the highest status of protection. The site forms part of a residential garden and lies within the Bedhurst and Stockbury Downs landscape character area, both parties agree this has moderate sensitivity.

5. There is existing residential development on three sides of the appeal site. This surrounding residential development includes full two storey dwellings. Although the site and its surroundings have a rural feel, it does not form part of an open area of countryside. There is a sporadic, loose knit pattern of residential development to the rear of Forge Lane. The development of the site to provide a new dwelling would not therefore involve an extension to the built envelope associated with the village.
6. The development would involve a large increase in built form on the site in comparison to the existing garage building. The dwelling would contain accommodation over two levels, albeit with the upper floor set within the roof space, thereby resulting in increases in the height, bulk and footprint. However, having regard to the scale of surrounding buildings, which include substantial two storey dwellings, the proposal would appear in keeping with this. A large amount of space would be retained around the dwelling, with good separation to the site boundaries. As such, the siting and footprint of the dwelling within the plot would reflect the rural character and the sporadic pattern and grain of development that exists around the site.
7. The proposal would be of an appropriate design, with its appearance reflecting surrounding architecture. This includes in respect of the roof form, scale and materials. The 1.5 storey form would avoid the dwelling appearing unduly prominent and would ensure it blends in with surrounding built form. It is relevant to have regard to the cumulative effects of the development, particularly given there has been a number of residential developments completed or underway close to/adjacent to the site. As the proposal in isolation would reflect the rural character of the area, and would not be harmful, there is also no evidence to indicate any cumulative harm would result from the appeal proposal.
8. There would be an increase in residential paraphernalia, because of the introduction of an additional dwelling. As the site is already in residential use, the increase in the residential paraphernalia associated with a single dwelling would not represent a significant change compared with the existing position. The proposal would necessitate the removal of a small number of fruit trees on site. There would be sufficient space retained within the site to accommodate a soft landscaping scheme such to mitigate the tree loss and preserve the site's natural features.
9. My attention has been drawn to recommendations contained within the Maidstone Landscape Character Assessment (2013). This document places emphasis on the need to adhere to requirements set out within the AONB management plan and to restore and improve the rural setting through delivery of appropriate architectural and landscape design.
10. The AONB Management Plan, places emphasis on tree retention and highlights the potential cumulative effects from pressure for small scale development and change. Although some tree loss would be required, tree protection measures could be secured by condition, together with a soft landscaping scheme to

provide suitable replacement trees, such to preserve the landscape character of the site and the character and beauty of the AONB.

11. Having regard to the above considerations, the development would be acceptable in respect of its effect on the character and appearance of the area, including in terms of the effect on the AONB. The proposal would accord with Development Plan Policies SP17, DM1 and DM30 of the LP, as well as the Kent Downs AONB Management Plan 2021-2026 and the Framework. These policies and guidance taken together, seek amongst other matters, to ensure that development enhances the local distinctiveness of an area, avoids harm to character and appearance of the area, and requires great weight should be given to the conservation and enhancement of the AONB.

### **Other Matters**

12. My attention has been drawn to a number of appeal decisions by the Council. The Forge Lane decision, is of some relevance as it relates to land adjacent to the appeal site. However, the development to which the decision relates was of a more significant scale than currently proposed, and dates from 2011, so a different policy framework was in place at the time. The Highfield house, Marden decision is much more recent and addresses similar issues to those relevant to this appeal, including confirming the relevance of considering the cumulative effects of development. The site is however, located in a different part of the district and from the block plan the site appears to be in a different context as it is not as enclosed as the appeal site. Given these factors, these decisions do not alter the conclusions above. A further appeal decision has been drawn to my attention, at Firwood Lodge. This decision confirms the Council's housing land supply position, however housing land supply is not a determinative matter in this decision.
13. In addition to concerns about character and appearance, which I have addressed above, third parties have raised concerns about other matters. These include the effect on the living conditions of neighbouring properties having regard to privacy, noise and disturbance and outlook; highway safety including the suitability of the access road and Forge Lane, biodiversity as well as the effects of the construction process.
14. The increase in vehicle numbers associated with one dwelling would be low. Whilst I note that Forge Lane is single track, there is no substantive evidence to suggest that the increase in traffic would lead to adverse effects on highway safety. I also note that the Council and highway authority did not raise objection to the proposal on these grounds.
15. In respect of the effect on the living conditions of neighbouring occupiers, the siting of windows on the proposed dwelling would avoid any direct overlooking at first floor level or above, thereby avoiding any harmful loss of privacy. There would be a good separation between the neighbouring dwellings and the appeal site. Whilst there are some garden areas in relatively close proximity to the site, there would nonetheless be sufficient separation to avoid adverse harm.
16. An interested party has made reference to a potential breach of article 8 of the Human Rights Act, in respect of the effect of the proposal on their enjoyment of their garden which is close to the appeal site. Article 8 deals with the right to respect for family life and the home. I have given consideration to these rights, however, there is no substantive evidence that the proposal would lead to an

unacceptable adverse effect on the living conditions of any neighbouring occupier and no conflict has been identified with the Development Plan.

17. There is no substantiated evidence that the proposal would harm biodiversity. Whilst there would be some tree loss associated with the development there would be sufficient opportunities for soft landscaping within the site to maintain existing ecological interests. As such, there is no clear justification to depart from the Council's position, who raise no objection in respect of the effect of the development on biodiversity.
18. Construction associated with developments such as proposed do inevitably result in some adverse impacts such as noise, dust and disturbance. However, such impacts would be for a temporary period only and would be limited by the scale of the development.
19. Concerns in relation to damage to properties from passing vehicles, the loss of views and the loss of value to property are private matters and as such are of very limited weight and which does not lead me to find otherwise than that the proposed development is acceptable.

### **Conditions**

20. The Council has suggested a number of conditions in the event of my allowing the appeal, I have considered these in accordance with the Planning Practice Guidance and the National Planning Policy Framework. I have edited some of the suggested conditions for clarity and enforceability.
21. Conditions 1 and 2, to limit the timeframe for implementation together with a plan numbers condition, are required in the interests of certainty. Conditions 3-6 which secure details of proposed materials, land levels, landscaping works and refuse protection details are required in the interests of the character and appearance of the area. Condition 7, which secures tree protection details is also necessary in the interests of the landscape character of the area, this, along with condition 8 are necessary to safeguard and enhance biodiversity on site. Condition 9 is required to control the addition of further windows/openings at first floor level or above such to protect the privacy of neighbouring occupiers.
22. A condition to secure details of any external lighting has been suggested to me, however, my attention has not been drawn to any particular reason why this would be necessary to protect amenity, the addition of external lighting associated with a single dwelling would be unlikely to cause material harm. I do not propose to include this condition.

### **Conclusion**

23. For the reasons given above, I conclude that the development would accord with the development plan and there are no other material considerations which would lead to a different decision. The appeal is therefore allowed.

*R Lawrence*

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: PL01, PL03 B (Proposed Floor Plans); PL04 B (Proposed Elevations) and PL05 B (Proposed Site Plan).
- 3) No development above damp-proof course level shall take place until samples of all external facing materials and surfacing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 4) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 5) The development hereby approved shall not commence above slab level until a scheme of hard and soft landscape works has been submitted to and approved in writing by the local planning authority. The scheme details shall include.
  - i) 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.
  - ii) details of proposed planting to mitigate any loss of amenity and biodiversity value and include a planting specification,
  - iii) means of enclosure, boundary treatments and retaining structures including gaps at ground level to allow the passage of wildlife.
  - iv) a programme of implementation and
  - v) a 5-year management plan.

The approved soft landscaping works shall be carried out in accordance with the approved details and in the first planting and seeding seasons following the first occupation of the development or the completion of the development, whichever is the sooner.

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.

All approved hard landscaping shall also be carried out in accordance with the approved details prior to the first occupation of the development or the completion of the development, whichever is the sooner.

- 6) The development hereby approved shall not commence above slab level until, details of satisfactory facilities for the storage of refuse on the site and a suitable refuse collection point have been submitted to and approved in writing by the local planning authority and the approved facilities shall be provided before the first occupation of the development and shall be maintained thereafter.
- 7) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837: Trees

in relation to design, demolition and construction, have been submitted to and approved in writing by the local planning authority. All trees to be retained must be protected by barriers and/or ground protection. No equipment, plant, machinery or materials shall be brought onto the site prior to the erection of approved barriers and/or ground protection except to carry out pre commencement operations approved in writing by the local planning authority. Nothing shall be stored or placed, nor fires lit, within any of the protected areas. No alterations shall be made to the siting of barriers and/or ground protection, nor ground levels changed, nor excavations made within these areas without the written consent of the local planning authority. These measures shall be maintained until all equipment, machinery and surplus materials have been removed from the site.

- 8) Prior to the first occupation of the development hereby approved, details of biodiversity enhancements including a timetable for provision and management of bird nesting boxes and native species planting, shall be submitted to and approved in writing by the local planning authority. The installation of the bird nesting boxes shall be carried out in accordance with the approved details and they shall be retained thereafter.
- 9) No additional windows, doors, voids or other openings shall be inserted, placed or formed at any time in the elevations at first floor level or above, of the building hereby permitted.