



Appeal Decision

Site visit made on 5 January 2009

by **K Nield** BSc(Econ) DipTP CDipAF MRTPI

an Inspector appointed by the Secretary of State
for Communities and Local Government

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
27 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
email: enquiries@plins.gsi.gov.uk
Decision date:
27 January 2009

Appeal Ref: APP/U2235/A/08/2085803

East Court, The Street, Detling, Maidstone, Kent, ME14 3LX

- 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 T Chapman against the decision of Maidstone Borough Council.
- The application Ref MA/08/0083, dated 3 January 2008, was refused by notice dated 19 March 2008.
- The development proposed is the erection of three dwellings with associated garaging, new access and on-site access road, landscaping, noise barrier and other associated works.

Decision

1. I dismiss the appeal.

Preliminary Matters

2. Trees within the curtilage of *East Court* are covered by a Tree Preservation Order (TPO) (No.10 of 1975). The parties agreed at my visit that trees indicated as being protected by the TPO within the appeal site were felled either during the storm of 1987 or, in the case of 5 horse chestnut trees, felled in 2007 due to their dangerous condition. The parties agreed that no trees protected by the TPO would be affected by the appeal scheme. In the light of this it is not necessary for me to consider further evidence in respect of this matter.
3. The block plan does not number the dwellings. For reference purposes in my decision I shall refer to the proposed dwelling nearest the site entrance as Plot 1 with Plots 2 and 3 further to the east.

Main Issues

4. There is no dispute between the parties that the appeal site comprises previously developed land as defined in Annex B of Planning Policy Statement 3: *Housing* (PPS3) and that it lies within the defined village boundary for Detling shown on the Proposals Map of the adopted Maidstone Borough-Wide Local Plan (LP). LP policy H27 restricts development within the defined village boundary to minor development which, although not defined in the policy, includes infilling. It is indicated in the supporting text to the policy that each case is considered in the context of the settlement concerned.¹ The Council

¹ Paragraph 4.177: Maidstone Borough-Wide Local Plan

has not indicated that the scheme conflicts with LP policy H27 and I see no reason to differ.

5. Against that background I consider that the main issues in this appeal are:

- (i) the effect on the character and appearance of the locality including the Detling Conservation Area (CA), part of which lies within the appeal site, the Kent Downs Area of Outstanding Natural Beauty (AONB), the North Downs Special Landscape Area (SLA) and the setting of *East Court*; and
- (ii) the effect on the living conditions of occupants of *The Stables* through potential dominance, overlooking and loss of daylight and sunlight and on the living conditions of future occupants of the proposed dwellings through potential noise.

Reasons

Character and appearance

- 6. The site, which is elevated in relation to the main part of the village to the south, has an open and spacious quality at the north-eastern edge of Detling. To the north of the site is the A249 Maidstone - Sittingbourne Road at Detling Hill. Although it is clear from the evidence that several trees within the site have been felled² there remains substantial tree and shrub growth close to the site boundaries which provides screening to the site from the public domain.
- 7. The appeal site comprises garden land to the west side of *East Court*, a large detached property positioned at a more elevated position compared to the appeal site and dwellings to the south. The main aspect of *East Court* is to the south so that views of the property from the appeal site are mainly of its western, side elevation.
- 8. The site provides a spacious transitional area from the main part of the village towards its edge defined by the A429. The development of the southern part of the site would, if all other matters were acceptable, still retain an open area allowing for a "soft" edge to the village. The site is well contained and not prominent in the wider landscape. Development of the area of the site indicated for the proposed development would not have a harmful effect on the setting of the northern part of the village and not materially harm the natural beauty of the landscape of the AONB or the scenic quality of the area. In those regards I consider that there would not be material conflict with policies EN4 and EN5 of the adopted Kent and Medway Structure Plan (SP).
- 9. The proposed dwellings would be sited to the south side of a repositioned site access and drive. The minor works required to the site entrance would not have a harmful effect on the character or appearance of the part of the site within the CA. Views of the side elevation of *East Court* would be retained and whilst there would be a reduction in the spaciousness of this area I do not consider that would be harmful either to the setting of *East Court* or to views into the CA from the site. Although I do not consider that the scheme would enhance the CA I accept that the minor changes proposed to the site entrance

² Paragraph 2 above

and access would preserve its character and appearance. In that regard I do not consider that the appeal scheme would be in material conflict with Planning Policy Guidance: *Planning and the Historic Environment* (PPG15).

10. The boundary of the Detling Conservation Area (CA) includes the entrance to the site and the western part of the site although there is no clear demarcation of the boundary in this area. The main part of the CA lies to the west and south centred on The Street. I noted at my site visit that the CA contained a variety of dwelling types albeit with a preponderance of traditional cottage-style dwellings and with varied spacing between dwellings.
11. The modern form, design and appearance of the proposed detached dwellings would appear as a suburban addition to the edge of the village. In my opinion the proposed dwellings would not relate well to the more traditional form and appearance of dwellings in proximity to the site and in the main part of the village in conflict with LP policy ENV33(4) in that regard which requires new buildings in the AONB to reflect the traditional character of buildings in the area. In addition I consider that there is conflict with the aims of SP policy QL1 and design advice contained in Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1) and PPS3 which, taken together, require good design which contributes positively to making places better for people and design which should be appropriate to its context.
12. The appeal scheme would not have a harmful effect on the character and appearance of the CA or on the setting of *East Court* and gains some policy support from LP policy H27. Nevertheless those supporting factors are outweighed by the harm I have identified to the character and appearance of the locality and AONB through the inappropriate design of the proposed dwellings in conflict with the aims of SP policy QL1, LP policy ENV33(4) and PPS1 and PPS3.

Living conditions

13. The proposed dwellings are set at a staggered arrangement and angled to the proposed access and to existing dwellings at the rear. There is no dispute between the parties that Plots 2 and 3 would not have a harmful effect on the living conditions of dwellings to the south and I see no reason to reach a different view.
14. Plot 1 would be sited such that its south-western corner would be about 4 metres (m) from the common boundary with *The Stables*, a two-storey dwelling at a lower elevation than the appeal site. The main rear elevation of that dwelling is approximately 15m from the boundary with the appeal site. In the rear garden of *The Stables* are a number of single-storey outbuildings, which, I am informed by the appellants, are used as a cattery. Due to the difference in levels from the appeal site to *The Stables*, windows at first floor level at the rear of *The Stables* would be at a broadly equivalent level to proposed ground floor windows at the rear of Plot 1.
15. I accept that existing tree and shrub growth along the common boundary between Plot 1 and *The Stables* together with the outbuildings at the rear of that dwelling would act as a partial screen to overlooking of the ground floor windows and the remaining garden area of that property.

16. A bedroom window in the rear elevation of Plot 1 would overlook first floor windows of *The Stables* at a distance of approximately 19m, albeit providing an angled view. As Plot 1 would be at a higher elevation I consider that overlooking from that distance would be intrusive and harmful to the living conditions of occupants of *The Stables*. In addition I consider that Plot 1, viewed from the rear of *The Stables*, would appear as a dominant building. In these respects I consider there is conflict with SP policies QL1 and HP2B(d). I have noted the appellants' contention that the main aspect of *The Stables* is to the south but that does not lead me to a different view on this matter.
17. The position and scale of Plot 1 in relation to *The Stables* would, to my mind, give rise to some loss of outlook from the first floor windows in the rear elevation of *The Stables*. On its own that would not lead me to dismiss this appeal but it adds to the harmful effect of the scheme on the living conditions of occupants of *The Stables* described above.
18. The rear amenity area of *The Stables* at the north side of that dwelling is likely to be shaded by trees and shrubs along the common boundary and also by the outbuildings. Due to the location and orientation of Plot 1 I do not consider it would lead to a material loss of sunlight or daylight to the rear garden or windows in the rear elevation of *The Stables*.
19. I turn now to consider the potential disturbance to future occupants of the proposed dwellings from noise arising from vehicles travelling on the A249. The appellants supplied a consultant's assessment of noise with the application, dated April 2005. That assessment was originally undertaken without the provision of a scheme layout and its conclusions reflect that position. The consultant indicated that there was no reason for planning permission for residential development at *East Court* to be refused on noise grounds.
20. The report was re-submitted with the application but the assessment did not relate to the layout proposed in the appeal scheme and the Council was not satisfied that the submitted scheme incorporated appropriate measures to reduce the effect of noise. The consultant has subsequently revised his report to consider the implications of noise on the proposed layout. The revised report submitted with the appeal concludes that adequate protection of the proposed houses from road traffic noise can be provided if measures including a boundary noise barrier, appropriate glazing of the north-facing facades and a ventilation system are incorporated.
21. The Council has not disputed the consultant's recommendations and I have no reason to do so. The measures proposed could be secured through planning conditions if all other aspects of the scheme were acceptable. In the light of this I consider that the scheme would not be harmful to the living conditions of future occupants of the proposed dwellings through noise and would not conflict with SP policy NR6 or advice in Planning Policy Guidance 24: *Planning and Noise*.
22. Notwithstanding my comments regarding the effect of noise on potential future occupants of the proposed dwellings, I consider that the scheme would be harmful to the living conditions of occupants of *The Stables* through overlooking and dominance in conflict with SP policies QL1 and HP2B(d).

Overall Conclusions

23. I consider that the harmful effect of the appeal scheme on the character and appearance of the AONB and the locality through inappropriate design and the harmful effect on the living conditions of occupants of *The Stables* through overlooking and dominance are compelling reasons why the appeal should not succeed.
24. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should not succeed.

Kevin Nield

INSPECTOR