
Appeal Decision

Site visit made on 5 October 2015

by Tim Wood BA(Hons) BTP MRTPI

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

Decision date: 03/11/2015

Appeal Ref: APP/U2235/W/15/3129105

Land at Cripple Street, Maidstone, Kent ME15 6DN

- 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 Millwood Designer Homes Ltd against the decision of Maidstone Borough Council.
 - The application Ref 14/503167/FULL, dated 4 September 2014, was refused by notice dated 30 March 2015.
 - The development proposed is residential development for 36 units and realignment of Cripple Street.
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Decision

1. The appeal is allowed and planning permission is granted for residential development for 36 units and realignment of Cripple Street at Land at Cripple Street, Maidstone, Kent ME15 6DN in accordance with the terms of the application, Ref 14/503167/FULL, dated 4 September 2014, subject to the conditions set out in Schedule 1 of this decision.

Main Issues

2. The main issues in this appeal are;
 - The effects of the proposal on the Area of Local Landscape Importance (ALLI)
 - The effects of the proposal on the adjacent historic assets

Reasons

3. Although not referred to in the Council's statement, the officers' report to the Council's Committee sets out that the Council is unable to demonstrate a 5 years' supply of housing land. The report goes on to set out the implications in reference to the National Planning Policy Framework (the Framework); it accepts that relevant policies for the supply of housing should not be considered up to date and refers to Policy ENV28 as one such policy. I acknowledge the position that the Council is in relating to its supply of housing land, and it is in this context that I shall determine the appeal. In these circumstances, I consider the provision of additional homes, including some affordable, where a significant shortfall exists should be seen as a considerable benefit.

The effects of the proposal on the ALLI

4. The appeal site is an undeveloped area of land outside the urban boundary, within the open countryside. The site is within an ALLI as identified by Policy ENV35 of the Maidstone Borough-Wide Local Plan 2000 (LP) wherein particular attention will be given to the maintenance of open space and the character of the landscape.
5. The site edges contain varying degrees of screening provided by existing vegetation, particularly along the north and west. To the east the site is bounded by a footpath and housing development within the urban area. Whilst the existing hedge provides some screening here, I can see that views from within the adjacent houses take the eye above the hedge to the site and open countryside beyond. Whilst there is a degree of screening along the Cripple Street frontage, the realignment of the road here would allow for additional planting to strengthen this effect.
6. The proposal would provide detached, semi-detached and terraced housing generally of 2 stories with some at 1.5 storeys. The residential development to the east is generally of this form and the lower density housing to the west, whilst more spacious, is also generally of 2 storeys.
7. The appellant has submitted a landscape assessment and I was able to view the appeal site from a number of the identified points at my visit to the area. Generally, longer views are only possible from the south and west and having visited the identified vantage-points, the views available are very limited due to topography and screening provided by vegetation. The site is also seen in the context of existing housing on Cripple Street and Broadoak Avenue. Longer views from the north and east are not possible due to existing development and topography.
8. In relation to shorter views, the footpaths to the south and east and the road at Cripple Street give the best opportunities to see the site from public vantage points. Although some screening would be provided, the houses would be visible from these various points, although again, within the context of existing housing to the east and west. It is also notable that the Council has accepted the development of 2 areas of land to the north of the appeal site. Within the very local context, the development of a green-field site such as this there is inevitably an effect which alters the character of the site itself. However, as set out by the Council, the draft Local Plan acknowledges that Maidstone cannot accommodate all of its required growth on existing urban sites and so the change in local character such as this is something that, to me, seems inevitable. In addition, the proposed form and layout of the development includes generous degrees of spaciousness and it would not appear out of place between the existing housing to the east and the lower density houses to the west. Therefore, whilst there is a degree of conflict with Policy ENV35, this is outweighed by other matters.

The effects of the proposal on the adjacent Heritage Assets

9. To the east of the site sits the Grade II listed Bockingford Farmhouse and to the west of the northern part of the site, the boundary is shared with the Loose Valley Conservation Area.

10. The Farmhouse is an attractive brick building, said to date from the early 19th Century. The original setting of the Farmhouse has obviously been affected by the more recent housing development which abuts it on 3 sides. However, the open aspect to the west, directly over the appeal site contributes positively to its setting. Whilst the proposal would bring about 36 new homes on the site, the area of the appeal site adjacent to the Farmhouse would be open and shown as public open space; this would then extend across the full width of the site. I appreciate that the presence of houses on either side of the open space would alter the existing setting, but I find the retention of the open area of land as worthy of note. However, on balance I consider that the overall effects of the proposal would be to negatively affect the setting of the listed building; I do not consider this to be greatly so and would identify this as 'less than substantial harm' for the purposes of paragraph 134 of the Framework.
11. The north west of the appeal site sits adjacent to the boundary with the conservation area. The boundary contains a strong vegetative screen and presents a sense of separateness. The proposal would place the houses at some distance from the boundary here, with their rear gardens adjacent to the boundary; this and the swathe of open space would result in a strong sense of spaciousness at this point. As a result of these factors I consider that there would be no negative effects on the conservation area and its character and appearance would be preserved by the proposal.
12. In relation to this issue, I am required to balance the limited harm that I envisage arising on the setting of the listed building against the public benefits of the proposal. In this respect, I see the provision of new homes, including some affordable, in an area where there is an acknowledged shortfall in the supply of housing land as a public benefit that outweighs the identified harm.

Other Matters

13. I have taken account of the views of interested local individuals and groups who have made representations in relation to this scheme. Much of what is said relates to the effects on character and the heritage assets and I have dealt with these above. In relation to highways, it is notable that Kent County Council (KCC) as highways authority has not objected to the proposal; however, locals have submitted a document produced by KCC which refers to housing growth and resultant highways effects. At the very beginning of the document it states as a highlighted warning that, "It is important to note that the results of this assessment are indicative only, having been based on broad assumptions and not on a formal model run". In addition, the assessments refer to housing growth of around 16,000 and also 18,000 and then refer to an approximate number of 2250 in south-east Maidstone. From studying this document it is apparent that some broad assumptions have been made, the assessments are indicative only; and their use to assess a relatively small scheme for 36 houses would not be appropriate in my view.
14. My attention has also been drawn to a recent appeal nearby Ref APP/U2235/A/14/2219898. I have read this and considered its implications for the appeal before me. It is clear that the circumstances of the 2 schemes are not identical and my fellow Inspector attributed limited weight to the benefits arising from that smaller scheme. In my view the benefits arising from this larger scheme, which includes affordable housing are greater.

15. In response to issues raised by the Council and KCC and in order to comply with Policy CF1 of the LP, the appellant has submitted a completed Undertaking which makes provisions for open space and parks, strategic highways improvements, footpath improvements, education, libraries, affordable housing. The Council identifies that the Richmond Way Amenity Space is an area likely to be used by future residents of the scheme and additional works would be required to meet the extra demand and use; I am satisfied that this is the case. KCC request for strategic highways improvements to the capacity at the Loose Road/Boughton Lane junction and Loose Road/Sutton Road junction and the approaches to the Town Centre Bridge gyratory traffic signal junctions which are necessary due to the incremental additional impacts that the proposed housing development would have. Having considered the evidence submitted, I agree that this is justified. The contribution for the improvements to the Public Footpath KB22 and its associated furniture are justified by the proximity to the site and the additional use that would result from the proposal.
16. The KCC demonstrates that the local primary school is at capacity and that the proposal would result in additional demand being placed on it. As such, contributions for enhancements at Loose Primary School are justified. In relation to the libraries service, KCC indicates that the local library currently has a shortfall in stock ie one which is significantly below the County average. The contribution does not seek to make good this shortfall but just to meet the additional demand from the proposal, alone. In these circumstances, I consider that the contribution is necessary. The proposal makes provision for 30% of the units (11), which the Council considers acceptable and based on their evidence, I find it acceptable. The Undertaking sets out the details provisions relating to affordable housing. I am satisfied that it would secure an appropriate level of affordable housing, notwithstanding the comments made by the Council.

Conditions

17. I have considered the need for conditions in relation to the advice in the Planning Practice Guidance and the Council has suggested conditions. In order that the proposal has a satisfactory appearance and effect on the locality conditions relating to materials, fencing/walls, landscaping (including works to existing trees), levels and external lighting are necessary and reasonable. A requirement for ecological enhancements is justified taking account of the site's proximity to another wildlife site to the north and the undeveloped nature of the existing site.
18. So that the proposal encourages alternative means of transport, cycle storage should be ensured. Refuse/recycling storage should be provided to an agreed design. An archaeological investigation should be carried out so that any remains of value can be recorded and where necessary preserved. In the interests of proper drainage means for sustainable surface water drainage and for foul drainage shall be submitted and agreed. For the sake of certainty and proper planning, a condition requiring implementation in accordance with the approved plans is necessary.
19. The Council has suggested that the usual time limit for the commencement of development should be reduced from 3 years to 1 in this case; however, no justification is presented and so I shall not deviate from the usual 3 year time

limit. The Planning Practice Guidance states that conditions which restrict the use of permitted development rights should only be used in exceptional circumstances. The Council has suggested such a condition but has not demonstrated that any exceptional circumstances exist; therefore, I shall not include it.

Conclusions

20. The appeal site is within a sustainable location at the edge of the urban area and in close proximity to services and employment opportunities. The Council is unable to demonstrate a suitable supply of housing land and the development of this site would make a valuable contribution in this respect. In respect of preventing development in the countryside, LP Policy ENV28 is out of date.
21. With respect to the adjacent listed building, I have identified a small degree of harm to its setting arising from the development of the appeal site. However, I consider that this is outweighed by the public benefit of the provision of additional homes in an area where there is an acknowledged shortfall. Therefore, the appeal is allowed.

S T Wood

INSPECTOR

SCHEDULE 1: CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (eg. furniture, play equipment, signs, lighting etc); proposed and existing functional services above and below ground (eg. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.).
- 3) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme. Details shall include indications of all existing trees and hedgerows on the land and details of those to be retained, together with measures for their protection during construction. The details shall also include the long term management, design objectives, management responsibilities and maintenance for all landscaped areas, other than small, privately owned domestic gardens.
- 4) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority. 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, unless otherwise agreed in writing by the local planning authority.
- 5) The development shall not commence until an Arboricultural Method Statement in accordance with BS5837:2012 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) The development shall not commence until there has been submitted to and approved in writing by the local planning authority a habitat management plan detailing how all ecological enhancements and protected species mitigation will be managed in the long term. The site shall be managed in accordance with the approved habitat management plan thereafter.
- 7) If ground works do not commence within 2 years of the Ecology Report dated August 2014, a further reptile survey of the site shall be undertaken and submitted to and approved in writing by the local planning authority. Any works required shall be undertaken in accordance with a timetable to be agreed in writing by the local planning authority.

- 8) The development shall not commence until details for the provision of cycle storage have been submitted to and approved in writing by the local planning authority. The cycle storage shall be provided in accordance with the approved details prior to the first occupation of the development and thereafter retained.
- 9) The development shall not commence until details for the provision of refuse/recycling storage as well as site access design arrangements for waste collection have been submitted to and approved in writing by the local planning authority. The refuse/recycling storage and access arrangements shall be provided in accordance with the approved details prior to the first occupation of the development and thereafter retained.
- 10) The development shall not commence until details of the proposed slab levels of the buildings and the existing site levels have been submitted to and approved in writing by the local planning authority. The development shall be completed in accordance with the approved details.
- 11) No development shall take place until the implementation of a programme of archaeological works has been secured, the details and timing of which shall have been submitted to and approved in writing by the local planning authority.
- 12) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 13) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the local planning authority.
- 14) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 15) The development hereby permitted shall be carried out in accordance with the following approved plans: S101; C101A; P102M; P105C; P110; P111A; P112A; P113; P114; P115A; P116A; P117A; P118A; P119A; P120; P121; P122A; P123; P124; P125; P126; P127; P128; P129; P130A; P131A; P132; P133B; 5500H/01D.
- 16) No development shall take place until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the local planning authority. The scheme shall be implemented and thereafter managed and maintained in accordance with the approved details. Those details shall include:
 - i) a timetable for its implementation, and
 - ii) a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements

to secure the operation of the sustainable drainage scheme throughout its lifetime.