



Appeal Decision

Site visit made on 22 November 2022

by **B Pattison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 JANUARY 2023

Appeal Ref: APP/U2235/W/22/3293651

Land adj. West View, Maidstone Road, Staplehurst TN12 0RE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr D Saunders against the decision of Maidstone Borough Council.
 - The application Ref 21/504975/OUT, dated 8 September 2021, was refused by notice dated 20 December 2021.
 - The development proposed is outline application for the erection of up to four detached dwellings including creation of new vehicular and pedestrian access. Means of access and layout to be determined.
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Decision

1. The appeal is allowed, and outline planning permission is granted for the erection of up to four detached dwellings at land adjoining West View, Maidstone Road, Staplehurst, TN12 0RE in accordance with the terms of the application, Ref: 21/504975/OUT dated 8 September 2021, subject to the conditions set out in the attached Schedule.

Preliminary Matters

2. The application was made in outline with all matters except the means of access and layout reserved for subsequent approval. However, the application was accompanied by an indicative plan showing the scale of the houses and landscaping (amongst other things), which I shall treat as being for illustrative purposes only.

Main Issue

3. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site is approximately 2km from the centre of Staplehurst on Maidstone Road and is located beyond any settlement boundary. The western side of Maidstone Road consists of a variety of two storey and single storey dwellings of differing architectural designs. Their plots are linear, and the dwellings are arranged on a loose building line, with driveways and vehicular accesses. When viewed across the Maidstone Road the site is located to the left-hand side of 'West View'. The built form punctuates either side of the road along this busy transport corridor within an area which provides a transition in character from the more open countryside to the north and the Staplehurst settlement boundary to the south.

a) Layout

5. The previous appeal¹ confirmed that the proposed development would be in a suitable location for housing. The proposal is for the construction of four new dwellings on the site, with parking areas available to each property, and would include an access road onto the main highway. The dwellings would be located in a linear form, directly reflecting the pattern of development on this stretch of Maidstone Road, with dwellings facing the highway and gardens to the area. This layout is a distinct change from the previous “nucleated converted farmstead” approach which was dismissed by a previous appeal.
6. The site has existing built form to the north and south and the proposed development would act as continuation of this ribbon of built form. It would also replicate the existing ribbon development on the opposite side of the road. However, unlike many dwellings on the western side of Maidstone Road the proposed development would maintain the existing dense vegetation screening and landscaping along the site frontage. This would reduce its prominence when viewed from the road and would assist in integrating the development into the local landscape. The depth of the development towards the rear of the site would also be reduced when compared to the dismissed appeal scheme, and it would not appear overly prominent in surrounding views including those from the nearby public footpath. This ensures that the development would not have a domesticating impact on the existing character and spatial quality of the landscape.
7. The development of the appeal site would not result in an erosion in space between settlements along Maidstone Road. A significant gap between the appeal site and the nearest hamlet at Cross at Hand approximately 1.5km to the north would remain.
8. Importantly, a significant proportion of the southern part of the appeal site would remain free from development. This would maintain a development free gap and feeling of spaciousness between the appeal site and the nearest property to the south. Overall, the density of the proposed development would be reflective of the pattern of development of existing dwellings along the road.

b) Access

9. Whilst the vehicular access would introduce hard surfacing, where currently there is none, it would be located within the southern half of the site, within an existing gap in the natural boundary screening. This location avoids the requirement for significant tree loss along the site’s western boundary, thereby minimising the visual impact of the access. The Local Highways Authority has confirmed that the design and siting of the new vehicular access is acceptable. Additional supplementary planting is also proposed and could be secured as part of a future reserved matters application. The proposed access would comprise of a 3m wide surfaced carriageway with additional run-off areas to allow two vehicles to pass. The width is not dissimilar to the width of accesses to neighbouring properties on the opposite side of Maidstone Road and would not appear as an uncharacteristic addition.

¹ APP/U2235/W/20/3246516

10. A separate pedestrian access within the northern half of the site, as a result of its minimal width, would not have a significant impact on character and appearance of the area.
11. For the above reasons, I conclude that the proposed development would not cause harm to the character and appearance of the area. Accordingly, I find no conflict with Policies SP17, DM1 and DM30 of the Maidstone Local Plan 2017 (MLP) and Policy PW2 of the Staplehurst Neighbourhood Plan (2016-2031) (2016) (SNP), which require that development should respond positively to, and where possible enhance, the local, natural or historic character of the area. For similar reasons, the proposal complies with the principles of the National Planning Policy Framework (the Framework) which includes the aim that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting.

Other Matters

12. Interested parties have raised concerns about the impact of the proposed development on Peartrees Cottage, the adjoining Grade II Listed property, the impact on surface water flooding, and the potential for the development to set a poor precedent. Given the separation distance, the retention and proposed further planting on the shared boundary, I do not find that the layout proposed development would have a harmful impact on the setting of the Listed property. With regard concerns about surface water flooding and the impact on a local watercourse the provision of necessary drainage on the site could be assessed and conditioned as part of future reserved matters. As I have found that the proposed development would cause no harm to the character and appearance of the area it would not create a precedent for other developments that would cause harmful effects in this regard.
13. Parties also state that the site is not sustainably located as there is no footpath from the site into Staplehurst. There is a pathway on the opposite side of Maidstone Road which provides a direct route to Staplehurst by foot. Whilst the road is reasonably busy, pedestrians crossing the road from the site entrance would have good visibility in both directions, enabling them to cross safely. In terms of highway safety, an independent Road Safety Audit was submitted, and demonstrated that the proposed development would not have a harmful impact on highway safety. Interested parties have raised concerns about the proposed development's impact on local wildlife. However, I satisfied that the imposition of appropriate planning conditions can mitigate the development's impact on local wildlife.
14. A number of other matters have been raised by interested parties and I have taken them all into account. This includes matters such the impacts on highways safety, sewage services and local infrastructure. However, whilst I take these representations seriously, I have not been presented with compelling evidence to demonstrate that the appeal proposal would result in unacceptable effects in relation to any of these matters.

Conditions

15. I have imposed standard conditions relating to the submission and timing of reserved matter applications and the commencement of development. I have imposed an approved plans condition in the interests of certainty.

16. I have imposed conditions requiring the submission of a Construction Management Plan in the interests of highway safety. Similarly, I have included conditions related to the provision and retention of off-street parking, electric vehicle charging points and cycle and refuse storage, in the interests of highway safety and to promote low emission vehicles.
17. I have also included conditions requiring a Landscape and Ecological Management Plan and a revised reptile and Great Crested Newt mitigation strategy in order to protect and enhance biodiversity on the site. Conditions requiring further details of external lighting and tree protection measures are also required in the interests of landscape, visual impact and biodiversity.
18. I have included the Council's suggested conditions related to the provision of renewable or low-carbon sources of energy within the development. This is in the interest of ensuring energy efficient development. Conditions relating to further details of boundary treatments and existing site levels and proposed slab levels are included in the interests of character and appearance. The site is located within an area of archaeological potential and consequently a written scheme of investigation condition is imposed.
19. Bearing in mind the PPG's advice that such conditions should only be used in exceptional circumstances, I have not been provided with sufficient evidence as to why it would be reasonable or necessary to restrict several classes of the permitted development rights order. Consequently, I have not imposed the Council's suggested condition which would remove permitted development rights.

Conclusion

20. Overall, I conclude that approval of details of the means of access and layout would amount to an acceptable form of development that would satisfy the policies of the development plan and the Framework when taken as a whole. Therefore, for the reasons given above, taking into account all matters raised, I conclude that the appeal should be allowed.

B Pattison

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby approved shall not commence until approval of the following reserved matters has been obtained in writing from the local planning authority:
 1. Scale
 2. Appearance
 3. Landscaping

The application for approval of the reserved matters shall be made to the local planning authority before the expiration of three years from the date of this permission.

- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

18-083-004_Rev F

716-PL01 - P3

716-PL02 - P4

Tree Location Plan and Tree Constraints Plan (for illustrative purposes only)

- 3) Prior to the commencement of any development on site a Construction Management Plan shall be submitted to and approved in writing by the Local planning Authority. This shall include the following:
 - a) Routing of construction and delivery vehicles to / from site
 - b) Parking and turning areas for construction and delivery vehicles and site personnel
 - c) Timing of deliveries
 - d) Provision of wheel washing facilities
 - e) Temporary traffic management / signage

Development shall only be carried out in accordance with the approved plan.

- 4) The development hereby approved shall not commence until details of the a) the existing site levels and b) the proposed slab levels of the buildings have been submitted to and approved in writing by the local planning authority and the development shall be completed strictly in accordance with the approved levels.
- 5) The development shall not commence above slab level until details of how decentralised and renewable or low-carbon sources of energy (such as air or ground source heat pumps with no fossil fuels to be used in heating systems) will be incorporated into the development hereby approved to provide at least 10% of total annual energy requirements of the development, have been submitted to and approved in writing by the local planning authority. The approved details shall be installed prior to first occupation and maintained thereafter.
- 6) The development hereby approved shall not commence until details of tree protection in accordance with the current edition of BS 5837 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.
- 7) With the first reserved matters application and before any works commence (including site clearance), a revised reptile and Great Crested Newt mitigation strategy will be submitted to, and approved by, the local planning authority. This will be based on the 'Great Crested Newt Survey and Mitigation Strategy Report' and the 'Reptile Survey and Mitigation Strategy' (KB Ecology July 2019). Prior to the first occupation of the development, the

measures will be carried out in accordance with the approved strategy, unless varied by a Natural England licence.

- 8) With the first reserved matters application, a Landscape and Ecological Management Plan (LEMP) will be submitted to, and be approved in writing by, the local planning authority. The LEMP will be based on the 'Ecology Mitigation Plan' (Ubique Architects September 2021) and will include the following:
- a) Description and evaluation of features to be established/maintained
 - b) Ecological trends and constraints on site that might influence management
 - c) Management objectives and appropriate management prescription for achieving these objectives
 - d) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period)
 - e) Details of the body or organisation responsible for implementation of the plan.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(ies) responsible for its delivery. The approved plan will be implemented in accordance with the approved details.

- 9) The development hereby approved shall not commence above slab level until details of the proposed boundary treatments to the boundaries of the application site have been submitted to and approved in writing by the Local Planning Authority. The boundary treatments (to include gaps at ground level in the boundaries to allow the passage of wildlife) shall be implemented in accordance with such approved details.
- 10) Prior to the first occupation of the development, facilities for the (a) storage and screening of refuse bins (b) collection of refuse bins, and (c) cycle storage shall be in place that are in accordance with details that have previously been submitted to and approved by the Local Planning Authority. These details will be maintained thereafter.
- 11) Prior to first occupation of the dwellings, at least one all Electric Vehicle charger shall be provided for each dwelling. They must be provided to Mode 3 standard (providing up to 7kw) and SMART (enabling Wi-Fi connection). Approved models are shown on the Office for Low Emission Vehicles Homecharge Scheme approved chargepoint model list <https://www.gov.uk/government/publications/electric-vehicle-homecharge-scheme-approved-chargepoint-model-list>
- 12) Any external lighting installed on the site (whether permanent or temporary) shall be in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. These details shall include, inter alia, measures to shield and direct light from the light sources so as to prevent light pollution and illuminance contour plots covering sensitive neighbouring receptors and the sensitive landscape location. The development shall thereafter be carried out in accordance with the subsequently approved details and maintained as such thereafter.

- 13) The areas shown on the submitted plan as car parking spaces shall be kept available for such use at all times and no permanent development, whether permitted by the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking or re-enacting that Order) or not (other than the erection of private garages), shall be carried out on the land shown. The car parking spaces, and access thereto shall be provided prior to the occupation of the dwellings hereby permitted.
- 14) The approved landscaping shall be carried out during the first planting season (October to February) following first occupation. Any seeding or turfing which fails to establish or any trees or plants which, within five years from the first occupation of a property, commencement of use or adoption of land, 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 unless the local planning authority gives written consent to any variation.
- 15) Prior to commencement of development (including demolition) the applicant shall secure the implementation of a programme of archaeological work in accordance with a written scheme of investigation by an archaeological organisation approved in writing by the Local Planning Authority. Access shall be permitted to the site at all reasonable times for the carrying out of the investigations, including making necessary records of items of interest and finds