



## Appeal Decision

Site visit made on 11 December 2018

by **N Thomas MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 06 February 2019

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**Appeal Ref: APP/U2235/W/18/3212900**

**The Grove Residential Home, 6 Bower Mount Road, Maidstone ME16 8AU**

- 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 R Oliver against the decision of Maidstone Borough Council.
  - The application Ref 18/502320/FULL, dated 30 April 2018, was refused by notice dated 12 July 2018.
  - The development is described as follows: 'to construct three detached houses with associated garages on vacant land to the east of The Groves Care Home, with a new entrance and drive off of Bower Mount Road.'
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### Decision

1. The appeal is allowed and planning permission is granted for the construction of three detached houses with associated garages, with a new entrance and drive, at Land east of The Grove Residential Home, 6 Bower Mount Road, Maidstone ME16 8AU in accordance with the terms of the application, Ref 18/502320/FULL, dated 30 April 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

### Procedural Matters

2. The address and the description of the development in the heading above have been taken from the application form. The Council changed the address to 'Land east to The Grove Residential Home' in their decision notice. This is a more accurate description of the location of the site, but I have amended it further for clarity. I have also amended the description of the development to remove unnecessary wording describing the site and making reference to the address.

### Main Issue

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

### Reasons

4. The front boundary of the site is formed by a long and tall section of ragstone wall, a distinctive feature of the area, with some vegetation behind it. The proposal would require a break in the wall to create a vehicular access towards its eastern end. As this would leave the majority of the wall intact, its contribution to the character and appearance of the area would be largely retained. Moreover, as there are already several access points in the vicinity of

the site which form breaks between sections of wall, an additional gap in this location would not appear out of character.

5. The mature landscaping behind the wall currently makes a positive contribution to the street scene. However, the garden for the proposed dwelling in Plot 1010 would be relatively generous and an appropriately designed landscape planting scheme could be provided which would mitigate its loss. I understand from the appellant's evidence that consent has previously been given for the removal of a beech tree, and a replacement tree is indicated adjacent to the proposed access point. There is no evidence to indicate that there would be insufficient space for the proposed replacement tree, and other planting to become established. I note that several trees would be lost, some of which are protected. However, most boundary trees are shown to be retained and the proposed plans indicate that there would be sufficient spacing to the side and rear boundaries for retained or new boundary treatments.
6. Parts of Bower Mount Road, particularly to the west of the appeal site, have a spacious character with development set back from the frontage, and the appeal site is currently largely free from built development. However, it is seen in the context of the tighter pattern of development to the east and on the opposite side of the road, which is apparent within the street scene and in views through access points. In this setting the relatively compact form of the proposed development would not appear out of character. Moreover, it would have a similar set back from Bower Mount Road to the front of the main building at The Grove Residential Home. It would be visible in the view described on pages 46 and 47 of the Character Area Assessment of London Road, Bower Mount Road, Buckland Hill Area Supplementary Document 2008 (SPD), where the road descends, allowing brief glimpses of countryside and where buildings are barely visible behind the dense landscaping. However, it would be at least partially screened by the retained wall and new planting and would not appear incongruous or overly prominent.
7. I am aware that an appeal was dismissed for flats on the site in 2002 but I have not had sight of this decision or the details of the proposal. I have considered the appeal on the basis of its particular circumstances, therefore I am satisfied that a precedent would not be set for similar development.
8. To conclude on this issue, I find that the proposal would respect and would not be harmful to the character and appearance of the site and surrounding area. I therefore find no conflict with Maidstone Borough Local Plan 2017 policies DM1 and DM11, which aim, amongst other things, to create high quality design which responds positively to the local character of the area; and allow development of garden land where it would not result in significant harm to the character and appearance of the area. It would not conflict with the guidance in the SPD which aims to raise the standard of design of new proposals such that they fit well with the locally distinctive character of the area.

### **Other Matters**

9. In terms of privacy, I am satisfied that due to the distances between windows to main habitable rooms and neighbouring properties, any overlooking would not be significant, taking into account the differing ground levels. Furthermore, the dwelling in Plot 1030 would present only upper floor bathroom windows towards neighbouring gardens. Should this scheme be acceptable in all other regards, these windows could be obscure glazed by condition, and any further

windows in the east elevation could be similarly controlled. At ground floor level, overlooking from windows would be restricted by boundary treatments.

10. Due to the distances between the proposed dwellings and neighbouring properties, along with their scale and design, any impact on outlook and day/sunlight would be limited. I note the concerns regarding noise and odour, from waste disposal, storage, vehicle emissions and the proximity of the turning area to the site boundary, but the proposed layout and relationship with neighbouring properties would not be unusual in a built up area such as this. I conclude that the proposed development would not have a harmful effect on living conditions, and in reaching this conclusion I have had due regard to the Public Sector Equality Duty contained in the Equality Act 2010.
11. I note that concern has been expressed regarding inaccurate plans, but I am satisfied that I have been able to adequately consider the proposal, having visited the site and the surrounding area. Issues relating to the ownership of the site and its current or previous use have not had any material bearing on my assessment of the planning issues in this appeal.
12. There is no firm evidence to suggest that the proposed development would be harmful to protected species, cause land stability or drainage issues or put local services and facilities under undue pressure. I note the concerns regarding highway safety, but adequate turning and parking would be provided within the site. I saw that on-street parking is controlled in this area, and there would be the loss of some roadside parking to form the vehicular access. However, in view of the availability of on street parking in the wider area I am not persuaded that there would be any resulting harm to highway safety or convenience.

### **Conditions**

13. The Council has suggested conditions to be imposed should the appeal be allowed. I have considered the suggested conditions in the light of the guidance contained in the Government's Planning Practice Guidance (PPG). In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans.
14. Conditions relating to external materials, landscaping, boundary treatments and tree protection are required in the interests of the character and appearance of the area. Conditions restricting new windows and requiring obscure glazing are required in the interests of the living conditions of neighbouring occupiers. A condition requiring the provision and retention of car parking and turning is required in the interests of highway safety. Opportunities to incorporate biodiversity in and around new developments should be encouraged and a condition is required to achieve this. The Council has suggested a condition relating to surface water drainage, but I note that the appellant is intending to use soakaways and therefore this condition is not necessary. Conditions relating to electric vehicle charging points and renewable energy have not been justified by reference to any LP policy.
15. The PPG advises that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I am not persuaded that such circumstances exist in this case, except where previously stated in relation to Plot 1030.

## Conclusion

16. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*N Thomas*

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:

Drawing 16.03.2 Proposed site block plan  
Drawing 16.03.30 Rev. A Proposed Site Layout  
Drawing 1010B Proposed floor plans  
Drawing 1020A Proposed floor plans  
Drawing 1030B Proposed floor plans  
Drawing 16.03.SK13B Plot 1010 East Elevation  
Drawing 16.03 SK22 Plot 1010 - East Elevation  
Drawing 16.03.SK20 Plot 1010 - North Elevation  
Drawing 16.03.SK21 Plot 1010 - South Elevation  
Drawing 16.03.SK23 Plot 1010 - West Elevation  
Drawing 16.03.SK08 Plot 1020 - East Elevation  
Drawing 16.03.SK07 Plot 1020 - North Elevation  
Drawing 16.03.14A Plot 1020 South Elevation  
Drawing SK01 Plot 1020 - South Elevation  
Drawing 16.03.SK09 Plot 1020 - West Elevation  
Drawing 16.03.15 Rev B Plot 1030 - South Elevation  
Drawing 16.03.SK12 B Plot 1030B - East Elevation  
Drawing 16.03.SK11B Plot 1030B North Elevation  
Drawing 16.03.SK03B Plot 1030B - South Elevation  
Drawing 16.03.SK10B Plot 1030B West Elevation  
Drawing 16.03.4 Block Plan Proposed  
Drawing 1000B  
Drawing 16.03.23 B Site Section A  
Drawing 16.03.24B Site Section B  
Quaife Woodlands AR/2964a/jq Arboricultural Survey & Planning Integration Report dated 14 December 2017

- 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the east elevation of Plot 1030.
- 4) The building at Plot 1030 hereby permitted shall not be occupied until the windows at first floor level in the east elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and

- approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 5) No development beyond slab level shall take place until samples of all external facing 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.
  - 6) No development beyond slab level shall take place until a scheme for the enhancement of biodiversity on the site has been submitted to and approved by the local planning authority in writing. The development shall be implemented in accordance with the approved details and all features shall be retained thereafter.
  - 7) No development beyond slab level shall take place until details of all fencing, walling and other boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details before the first occupation of the buildings and maintained thereafter.
  - 8) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. 16.03.30A for cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
  - 9) The development shall be carried out in accordance with Quaipe Woodlands AR/2964a/jq Arboricultural Survey & Planning Integration Report dated 14 December 2017.
  - 10) No development beyond slab level shall commence until details of soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
    - i) a statement setting out the design objectives and how these will be delivered;
    - ii) planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate including replacement of the beech tree near the site entrance and front boundary planting.
  - 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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.