

Appeal Decision

Site visit made on 14 February 2017

by R J Jackson BA MPhil DMS MRTPI MCMi

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

Decision date: 24 February 2017

Appeal Ref: APP/L3625/W/16/3154608

Ash Meadow, Bridge Way, Chipstead CR5 3PX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Gary Ferrier, Lucas Design & Construction against Reigate & Banstead Borough Council.
 - The application Ref 16/01050/F, is dated 29 April 2016.
 - The development proposed is erection of dwelling and associated parking, alterations to the existing dwelling.
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Decision

1. The appeal is dismissed insofar as it relates to erection of dwelling and associated parking and planning permission is refused for erection of dwelling and associated parking. The appeal is allowed insofar as it relates to alterations to the existing dwelling and planning permission is granted for alterations to the existing dwelling at Ash Meadow, Bridge Way, Chipstead CR5 3PX in accordance with the terms of the application, Ref 16/01050/F, dated 29 April 2016, and subject to the following 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 so far as relevant to that part of the development hereby permitted: 030/PL01, 030/PL03, PL006, PL007.
 - 3) No development shall take place, including any works of alteration, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the parking and turning of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) HGV deliveries, including arrangements for management of HGV movements at the junction of Bridge Way with Hazelwood Lane; and
 - v) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) No equipment, materials or machinery shall be brought on site in connection with the development hereby permitted, and no works, undertaken until tree protection measures have been erected on site in accordance with details submitted to and approved in writing by the local planning authority and agreed in writing as complete by the local planning authority. The protection shall be retained until the development is complete and nothing shall be placed within the fencing, nor shall any ground levels be altered or excavations made without the prior written consent of the local planning authority.
- 5) The materials to be used in the construction of the external surfaces of the extension hereby permitted shall match those used in the existing building.

Procedural matters

2. Following the lodging of the appeal the Council indicated that, had it been in a position to do so, it would have refused the application because of, as it considered it, its effects on the character and appearance of the area and on highway safety. The officer report which made up the Council's statement also made reference to concerns as to whether the proposal made adequate provision for affordable housing. However, the covering letter accompanying the report indicated that in light of appeal decisions in the area, and the weight given to a Written Ministerial Statement of 28 November 2014 under the title "Small-scale Developers" and national Planning Practice Guidance (the PPG) in those decisions, it no longer wished to pursue the reason for refusal relating to affordable housing and this should be "removed". I therefore do not intend to consider that issue further.
3. Following the lodging of the appeal the Council granted a certificate of lawfulness of existing use or development (the CLEUD) under Section 191 of the Town and Country Planning Act 1990 (as amended). This certified the use of the existing building on the western part of the site "for Office (B1 use)" was lawful.
4. Application drawing number 030/PL04 indicates that both the front and rear elevations are "south" elevations. This is incorrect, but it is possible to deduce which of them should be south and which north. I have considered the appeal on the appropriate basis.
5. The Tree Protection Plan submitted with the application indicates provision of driveways for both Ash Meadow and the proposed new dwelling. However, the driveway for Ash Meadow does not appear on the main planning drawings, was not set out in the description (the "associated parking" being for the proposed dwelling) and consequently does not form part of the proposals in front of me.
6. As the description of the proposal set out in the heading makes clear the proposal is for both a new dwelling and for various works to the existing house. The representations from the appellant, Council and local residents have all concentrated on the proposed new dwelling, and, this is the main issue in relation to the appeal. However, I also need to consider the proposed alterations and extensions and will do so below.

Main Issues

7. The main issues are the effect on:

- the character and appearance of the area; and
- highway safety

Reasons

Character and appearance

8. The appeal site lies off a short cul-de-sac, Bridge Way, in an area of low density development made up of large houses set in their own substantial grounds giving the area a spacious character. The cul-de-sac is finished in gravel, and there is a small lay-by in front of the site. Ash Meadow is located on the easternmost side of the site at a lower level than the road; the ground level continues to fall to the north behind the house.
9. In the south west corner of the site is a building which benefits from the CLEUD referred to above. For nomenclature purposes I will call this "the office building". This is a single storey structure and has vegetation in front and to the side of it so that it appears 'tucked' into the corner and is not prominent in the street scene. An area of hardstanding lies to the east of this building which was used for parking at the time of my site visit.
10. The main Ash Meadow House is a substantial two storey property. At some point in the past it was extended with a two storey flat roofed extension on the northern end. The proposed extensions to this building would be to provide a pitched roof over this two storey extension integrating with the main roof. There would be a number of other alterations, including removing the upper sections of two bay windows on the west elevation. All these alterations would be in keeping with the existing property and the existing character and appearance of the area. The alterations would also have no material effect on the living conditions of the occupier of any neighbouring property.
11. As such the proposed extensions would comply with Policy Ho9 of the Reigate and Banstead Local Plan 2005 (the RBLP) in that the scale would not be detrimental to the character of the surrounding area. It would also comply with paragraph 58 of the National Planning Policy Framework (the Framework) in that it would respond to local character.
12. The remainder of the proposal is for demolition of the office building and the construction of a large detached dwelling. This property would have accommodation on three floors with the uppermost floor being within the roofspace lit by small dormers in the front and rear elevations and two rooflights in the flat portion of the crown roof. The dwelling would be set down from Bridge Way but would be at a slightly higher level than Ash Meadow.
13. In three dimensional form the proposed dwelling would appear as a bulky building due to the extensive area of crown roof. This would be particularly noticeable when seen at an angle rather than face on as in elevation, which would be how the building would be appreciated when viewed by those travelling along Bridge Way. In addition, because the property would be set down from Bridge Way it would be possible to look out on the single storey front element that forms the double garage with its own crown roof, giving the appearance of an element only connected to the main dwelling through materials rather than being part of an integrated and comprehensive design. Both of these elements mean that the proposal must be considered to be poor design.

14. While the properties I saw in the area at the time of the site visit are all large, none have the extensive and bulky roof forms I have identified above and therefore the proposal would be not in accordance with and harmful to the character and appearance of the area. The Framework in paragraph 56 emphasizes that the Government attaches great importance to the design of the built environment and that good design is a key aspect of sustainable development, and is indivisible from good planning.
15. The Council and local residents are concerned that the building would appear cramped within its site. However, I am satisfied that while close to the proposed boundary with Ash Meadow there would be sufficient separation to that property, those around the appeal site and with the existing vegetation in the area so that the proposal would not appear cramped. Nor would it result in an overbearing effect detrimental to the living conditions of the occupiers of adjoining properties. As such it would comply with Policy Ho13 of the RBLP which indicates development should conform to the pattern of development in the surrounding area.
16. However, the proposed dwelling would be contrary to Policies Ho9 and Ho16 of the RBLP as set out above, and that appropriate consideration has not been given to the design and size of the dwelling, in relation to the shape of existing properties. It would also fail to comply with paragraph 56, 58 and 64 of the Framework, as set above, as it would fail to respond appropriately to local character, and as it would be a poor design that fails to take the opportunities available for improving the character and quality of an area it should be refused.

Highway safety

17. All parties to the appeal concur that the junction of Bridge Way with Hazelwood Lane is significantly sub-standard in both sight lines and width so that an increase in traffic would give rise to conditions prejudicial to highway safety. There is no separate footway with pedestrians having to walk in the carriageway and also have to walk a small section of Hazelwood Lane through its adjacent junction with Stagbury Close to get to the footway over the railway bridge on the other side of the carriageway.
18. Having visited the site, inspected the junction on foot, and driven through it I agree that the sight lines are severely restricted, the carriageway width not sufficient to allow two vehicles to pass and pedestrians are required to use the carriageway. Due to the existing parapet to the bridge the sight lines cannot be improved. All these mean that the junction is not suitable for a material increase in additional movements¹. It also matters not when the journeys would occur; any movements through the junction are potentially hazardous.
19. I have been provided with correspondence from local residents who wrote to the Council objecting to the grant of the CLEUD. However, once a CLEUD has been granted it would not be appropriate to go behind the certificate as its contents "shall be conclusively presumed"². This means that the lawful use of the building is as a B1 office³.

¹ A 'movement' being a single journey, in or out

² Sub-section 191(6), Town and Country Planning Act 1990 (as amended)

³ For the definition see the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended)

20. The proposed extensions and alterations to Ash Meadow would not have a material effect on the amount of traffic resulting from the occupation of that property as a dwelling.
21. The appellant's position is that the amount of traffic generated by the proposed dwelling would be less than the use of the office building and consequently highway safety would be improved by the proposal. The Council and local residents are of the view that due to the nature of the office building when compared to the proposed dwelling there would be an increase in traffic harmful to highway safety.
22. The amount of traffic generated by a use, whether an office or dwelling, will be highly individualistic depending on the particular nature of the occupation. In this case, because the concern is the Bridge Way/Hazelwood Lane junction there will be also a complication of 'linked trips', for example, the postal deliveries to all the properties in Bridge Way will occur from a single pair of movements through the junction; there would be no 'extra' movements from this source for either an office use or dwelling.
23. The main parties have referred to the TRICS (Trip Rate Information Computer System) database which provides averaged vehicle movements associated with various uses in various locations, but this provides ranges of the number of traffic movements associated with uses. The Highway Authority is of the view that the TRICS figures should not be used due to the nature of the office building and the relationship with Ash Meadow. It is a matter of judgement as to the comparator figures.
24. The existing office building is a relatively low-key use using the former garage and does not provide a high quality internal environment. I saw four workstations in one room and a separate meeting room. Although historically the occupier of Ash Meadow worked in the office building, thereby 'removing' car journeys from his dwelling to his place of employment, the CLEUD states the use is an office with no such link.
25. The appellant has also proposed that the office building could be used more intensively than it has in the past, but I think this is not a likely occurrence due to the nature of the building.
26. Although the use has taken place for some time, and was taking place at the time of the application for the CLEUD⁴, this does not necessarily mean that it will continue in the longer term. However, I am satisfied that there is nothing in planning terms to prevent an office use continuing and this provides a fallback in the event of the appeal being dismissed on this issue. I therefore give this possibility of this use continuing significant weight.
27. Overall, particularly taking into account the nature of the existing building, it is my view is that the number of vehicle movements generated would be at the lower end of the appellant's estimates. Conversely, the proposed dwelling would be a large property suited for family occupation and traffic generation is likely to be at the upper end of the range of movements for dwellings, particularly as the nature of the Bridge Way/Hazelwood Lane junction is such that it would not encourage non-car borne modes, even taking into account the proximity of local facilities in the area.

⁴ Sub-section 191(1)(a), Town and Country Planning Act 1990 (as amended)

28. Traffic generation figures as noted above can only be estimates as to what will occur in the future, but taking all the evidence together the amount of traffic generated by the existing office use would be comparable with the amount of traffic generated by the proposed dwelling.
29. Objective 3 of the Surrey Transport Plan 2011-2026 seeks to improve road safety and while this is a laudable aim, this is not a formal development plan policy and thus can only be given moderate weight in the overall decision.
30. Consequently, in balancing the traffic from the existing lawful use with that from the proposed use the proposal would have a neutral effect on highway safety. As such it would comply with Policy Mo5 of the RBLP which indicates that development should not aggravate accident potential.

Other matters

31. Local residents are concerned that any construction work would have to use the Bridge Way/Hazelwood Lane junction which would add to highway dangers. However, if permission were to be granted then it could be subject to a Construction Management Plan required under a planning condition which would allow these movements to be controlled and managed.
32. Any covenants on the land which may or may not restrict how the land is used or what buildings are constructed are not part of the planning process. Similarly any effects of construction work on Bridge Way itself are private matters between the relevant parties.

Planning Balance

33. In looking at the two elements of the proposal I consider that the extensions to Ash Meadow would enhance the appearance of the building and would be in keeping with the overall character and appearance of the area. It would also not have a material effect on highway safety. I therefore intend to allow this part of the appeal and grant planning permission.
34. However, the proposed dwelling, while having a neutral effect on highway safety, would be significantly harmful to the character and appearance of the area and would not represent good design. These harms outweigh the benefits of the proposal of providing an additional dwelling in this location. I therefore intend to dismiss this part of the appeal and refuse planning permission.

Conditions

35. I have considered the conditions put forward by the Council against the requirements of the national Planning Practice Guidance and the Framework. In addition to the standard timescale condition, I have imposed a condition specifying the relevant drawings as this provides certainty.
36. I have also imposed a condition requiring the materials to match the existing building. For the reasons explored above, I consider that a Construction Management Plan is also necessary to ensure highway safety.
37. There are two trees immediately to the west of Ash Meadow shown to be retained as part of the proposals, and others along Bridge Way. Due to the proximity of the works to these trees in order to ensure their health and longevity I consider that tree protection measures should be in place prior to works commencing and retained during construction operations.

38. Where necessary and in the interests of clarity and precision I have altered the conditions to better reflect the relevant guidance.

Conclusion

39. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

RJ Jackson

INSPECTOR