



## Appeal Decision

Site visit made on 10 September 2019

**by Neil Smith BA Hons BTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 October 2019**

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**Appeal Ref: APP/E2205/W/19/3232227**

**Clap Hill House, Frith Road, Adlington, Ashford, Kent TN25 7DG**

- 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 Ms Clare Lacey against the decision of Ashford Borough Council.
  - The application Ref 18/00958/AS, dated 24 June 2018, was refused by notice dated 26 April 2019.
  - The development proposed is for a change of use of agricultural land to residential (garden) and to create a drive for a maximum of 3 cars and a car port.
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### Decision

1. The appeal is dismissed.

### Procedural Matter

2. I saw from my site visit that part of the appeal site has been fenced off and appears to have been in use as a residential garden area for some time. I note that the appellant states that the land has been in use since around 1986. However, it is not for me, under a section 78 appeal, to determine whether or not that use has subsisted. To that end it is open to the appellant to apply for a determination under sections 191/192 of the Act and my determination of this appeal under s78 does not affect the issuing of a determination under s191/192 regardless of the outcome of this appeal.

### Main Issues

3. The main issues are the effect of the proposal on (i) the character and appearance of the area and (ii) highway safety.

### Reasons

#### *Character and appearance*

4. The appeal site is an "L" shaped piece of land. It wraps around two sides of the garden of Cedar Cottage and abuts the rear gardens of Clap Hill House and Hillside Cottage. The land to the rear of Cedar Cottage has been separated off from the adjoining field with a post and rail fence. The strip to the side is an open field and has a narrow frontage onto Frith Road which is a winding country road with mature hedgerows on either side as it approaches the heart of the village. The site is located on the edge of the village and the area is rural in character.

5. The appeal proposal seeks to create a new entrance to allow up to three vehicles to park. I find that the new access would unacceptably remove a section of the existing tall hedgerow creating an unnecessary break in its length and cause harm to the character and appearance of this part of the village. I also find that the introduction of a significant strip of hard and soft surfacing to create a driveway to the car port would significantly change the appearance of the site having a detrimental urbanising effect on it. I conclude on this issue that the proposal would significantly harm the character and appearance of The Landscape Character Area.
6. The appellant has stated that additional hedgerows would be planted along the boundary with the adjoining field to mitigate the loss of section of hedgerow, however, I do not consider that this would outweigh the harm identified.
7. I conclude that the proposed development would harm the character and appearance of the area. The proposal conflicts with Policies ENV3a and ENV5 of the adopted Ashford Borough Council Local Plan 2030 (2019) which seek, amongst other things, to protect and where possible enhance the landscape characteristics of the area.

#### *Highway safety*

8. The new entrance to the appeal site would be on a bend as the road slopes gently up to the junction with Roman Road. I saw from my site visit that there is a 30mph speed limit in place and parking restrictions apply at the junction with Roman Road.
9. The highways authority require that visibility splays in this location measuring 2.4 metres by 42 metres should be provided. I note that there is no dispute between the parties that the proposal is significantly deficient in this provision. The existence of the tall hedgerow and planting on either side of the access means that there is no reasonable prospect that the minimum standard can be achieved as third-party land would be required. The lack of a suitable turning area would also require vehicles to leave the parking area in reverse gear which, given the location of the access onto the highway, would result in unsafe vehicular movements.
10. I find that the absence of adequate visibility splays and the lack of a suitable turning area for vehicles would have an unacceptably harmful effect on highway safety.
11. I am aware that the appellant has stated that two convex mirrors opposite the proposed new access would be installed to aid drivers exiting the driveway. The appellant has also stated that there is a lack of suitable and safe parking available in the village and that there have been no accidents in the last five years. I am also mindful that the proposal could provide an electric charging point. However, I do not consider that these matters alter or outweigh the harm identified to highway safety.
12. I conclude that the proposal would have a harmful effect on highway safety and conflicts with Policy TRA7 of the adopted Ashford Borough Council Local Plan 2030 (2019) which seeks, amongst other things, to restrict development which would give rise to road traffic accidents.

**Conclusion**

13. For the reasons above the appeal should be dismissed.

*Neil Smith*

INSPECTOR