



Appeal Decision

Site visit made on 20 September 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019

Appeal Ref: APP/E2205/18/3216441

Land rear of Millgarth, The Hill, Charing TN27 0LU

- 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 Charing TN27 Limited against the decision of Ashford Borough Council.
 - The application Ref 18/00421/AS, dated 12 March 2018, was refused by notice dated 6 July 2018.
 - The development proposed is described as 'Planning application for the erection of 8x dwellings'.
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Decision

1. The appeal is dismissed.

Procedural matter

2. It has been brought to my attention that the appeal site has an extant planning permission for four dwellings previously allowed at appeal¹. Whilst I have had regard to the previous appeal decision, I am not bound by it and my decision is based on the evidence submitted.
3. As a result of the Council adopting the Ashford Local Plan 2030 (LP) during the course of the appeal, the parties have been consulted and any comments have been taken into account in reaching my decision.

Main Issues

4. The main issues are the effect of the development on:
 - The character and appearance of the area; and,
 - The living conditions of the occupiers of adjacent properties; and,
 - The relationship with protected trees.

Reasons

Character and Appearance

5. The appeal site is located on land to the rear of the detached dwelling, Millgarth, on The Hill, which is characterised by large dwellings on spacious plots with large rear gardens. It is located on the edge of Charing village and is

¹ PINS ref: APP/E2205/W/14/3000568

- adjacent to the North Downs Area of Outstanding Natural Beauty (AONB), but not within it.
6. The appeal site is irregular in shape, with the proposed narrow access road to The Hill located to the side and rear of the adjacent dwellings, Millgarth and Wessex House. Beyond the appeal site is open farmland. The appeal site is well screened by the trees along its borders, though there are glimpsed, partial views from Pett Lane, which is some distance away and which runs at right angles to The Hill and from some of the neighbouring properties, notably Wessex House and Eastcote which have borders with the appeal site.
 7. The development proposed would construct eight dwellings, with four detached and four semi-detached dwellings with eighteen allocated parking spaces and five visitor spaces.
 8. As the appeal site is not part of continuous development and outside the footprint of an existing building the backland development would not be defined as infilling by the Council's Policy HOU3a of the LP. Accordingly, Policy HOU5 of the LP provides a set of criteria a)-f) for which residential windfall development in the countryside would need to satisfy and is consistent with the National Planning Policy Framework (2019) (the Framework). The Council states that the development proposed would meet criteria a) and b) with regards the scale of development being proportionate to the level of service provision provided in Charing village and is within easy walking distance of basic day-to-day services. Criterion c) would be met as the Highways Authority has raised no concern regards the effect of the development on the local road network or access arrangements to The Hill. Based on my site visit the appeal site would have good access to public transport and would be able to access services by walking and cycling and therefore would meet criterion d) and would have no harmful effect on the adjacent AONB or on the setting of a Listed Building and therefore criterion e) would also be met.
 9. In the vicinity of the appeal site The Hill is characterised by large dwellings set back from the road on large spacious plots, with mature landscaping and having varying architectural styles. Further down The Hill towards the village, but some distance away, Charing presents a much more compact and distinctly different pattern of development. The number of proposed units on the appeal site would result in a scale and pattern of development which would not be characteristic of the surrounding area towards the top of The Hill. The appellant states that the development proposed makes effective use of land and the appeal site has been enlarged to accommodate the increase in proposed dwellings compared to the scheme with extant permission. However, it would appear to be a contrived form of development where the layout for units 5-8 would appear to be at odds with the layout of the rest of the development proposed.
 10. The design of the dwellings incorporates accommodation in the roofspace, with dormers, which would increase the overall height of the dwellings and the council states would be significantly higher when compared to the proposed dwellings of the extant planning permission. Whilst I observed during my site visit examples elsewhere of dwellings in the surrounding area with accommodation in the roofspace, these did not appear to be out of keeping with their surroundings. Given the proposed layout of eight dwellings in close proximity to each other, combined with the increased height of the

proposed dwellings, the development proposed would appear to be out of character with the pattern and style of development to the appeal site's immediate surroundings.

11. Further, whilst the development proposed would provide an adequate level of car parking provision, in excess of the Council's adopted standards, it would incorporate tandem parking arrangements for units 1-2 and 5-8 and this would result in large areas of dominant hardstanding. This would accentuate the sense of overdevelopment and would be to the detriment of the character and appearance of the site as a whole.
12. Units 3 and 4 would have generous average plot widths of approximately 24m and would be approximately double the plot widths for units 5-8, with units 1-2 having plot widths of approximately 15m. Whilst the appellant has argued that the plot widths would not be out of character with the area as a whole, within the context of the plot sizes on the appeal site the comparatively smaller plot widths of units 5-8 in particular, would appear incongruous.
13. The cumulative harmful effects of the development proposed would result in criterion f) of Policy HOU5 not being met, with regards the need for the development proposed to achieve high quality design, which sits sympathetically within the wider landscape, preserves or enhances the setting of the nearest settlement, is consistent with local character and built form including scale and bulk.
14. I conclude that the development proposed would by reason of its design, layout, height and massing would be harmful to the character and appearance of the appeal site and to the surrounding area and would be contrary to policies HOU5 and SP6 of the LP, which when read together seek to ensure that residential windfall development in the countryside is of high quality design and respects the distinctive character, distinctiveness and sense of place of the surrounding area.

Living conditions

15. I note that the Highways Authority has raised no objections with regards the effect of the development and the proposed access to The Hill. However, due to the restricted width of the proposed access road there would be insufficient space along its edge for any structural boundary planting to provide mitigation from noise and disturbance from vehicles entering and leaving the site.
16. Further, the volume and frequency of traffic related to the proposed eight dwellings would be significantly increased compared to the scheme with extant planning permission, which is for four dwellings. The resulting noise and disturbance from the increased number of vehicles for the development proposed would have a harmful effect on the living conditions of the occupants of Wessex House and Millgarth House, as both would be in very close proximity to the proposed access road. The appellant has referred to a previous appeal decision² in which the Inspector raised no concerns with regards disturbance from the development proposed for a higher number of dwellings on the site. However, I have limited information on what was proposed and as the

² T/APP/E2205/A/89/133634

circumstances would have been different, whilst I have had regard to the previous Inspector's decision, I am not bound by it.

17. I conclude that the development proposed would result in harm to the living conditions of the occupiers of the neighbouring properties and would be contrary to Policy HOU5 of the LP which seeks to ensure that new residential development should be of high quality design and does not adversely impact on the amenity of neighbouring uses or the living conditions of the occupants of adjacent dwellings.

Trees

18. The Council has concerns that insufficient and outdated information was provided by the appellant with regards a tree survey and arboricultural impact assessment. Subsequently, the appellant submitted as evidence an Arboricultural Report³ (AR) following the Council placing a Tree Preservation Order over part of the site in 2018. The appellant states that the development proposed has been designed so that it would have no significant adverse impact on the arboricultural character and landscape of the local landscape.
19. I note that the Council has not commented on the AR, which states that no category A or category B mature trees of high landscape or biodiversity value would be removed, and only lower quality category C trees would be affected. I also note that the appellant's willingness to accept a condition proposed by the Council to submit a tree report which would meet BS5837:2012, had the appeal been allowed.
20. On the basis of the evidence submitted, I am satisfied that the development proposed would have no adverse impact on protected trees and conditions could have been imposed to ensure no adverse effects during the construction phase, had the appeal been allowed. I therefore conclude that the development proposed would not be contrary to Policy HOU5 of the LP, which seeks to ensure that new development provides an appropriate transition to the surrounding countryside and sits sympathetically within the surrounding landscape and conserves biodiversity interests on the site.

Other Matters

21. I have had regard to the concerns raised by interested parties which included amongst other things harm to the countryside and the AONB, harm to wildlife, drainage capacity and risk to highway safety. However, as the appeal is dismissed, I have not pursued these matters further.
22. I have also had regard to the concerns raised by an interested party with regards Article 1 and Article 8 of the Human Rights Act 1998. On the basis that the appeal is dismissed, I am satisfied that there would be no pathway for the rights under these Articles to be violated.

Planning Balance

23. The Council is able to demonstrate that it has a deliverable five-year housing land supply and has a recently adopted LP and therefore its policies are not out of date. On that basis, there would not be a presumption in favour of the

³ Arboricultural Report produced by Arborsense 07/09/18

development as set out in Paragraph 11 of the Framework and the so-called tilted balance would not be engaged.

Conclusion

24. For the reasons set out above, the appeal is dismissed.

Paul Wookey

INSPECTOR