



Appeal Decision

Site visit made on 15 October 2019

by J E Jolly BA (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2019

Appeal Ref: APP/E2205/W/19/3234235

Beauwell, Bowerland Lane, Chilham CT4 8AT

- 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 Paul Nichols against the decision of Ashford Borough Council.
 - The application Ref 18/01756/AS, dated 3 December 2018, was refused by notice dated 29 January 2019.
 - The development proposed is construction of 5-bed detached house with garage on land to rear of Beauwell, Bowerland Lane and Myrtle Cottage, Lower Lees Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. For the purposes of clarity, the Council have confirmed that Policy GP12 of the Ashford Local Plan 2000, Policy CS1 of the Local Development Framework Core Strategy 2008 and Policy TRS2 of the Tenterden and Rural Sites Development Plan Document no longer form part of the development plan. However, policies SP1, HOU5 and HOU10 of the Ashford Local Plan 2030 (Submission version) were carried forward into the final adopted Ashford Local Plan of February 2019 (ALP). Therefore, for the purposes of decision making I have proceeded on this basis.

Main Issues

3. The effect of the proposal on i) the character and appearance of the area, ii) the living conditions of the adjoining properties, with particular reference to outlook and enclosure and, iii) accessibility to local services.

Reasons

i) Character and Appearance

4. The appeal site is located in the loose-knit development of Old Wives Lee. I noted at my site visit that the site is an area of open ground most likely to have been used as a garden space serving the surrounding buildings. This is reinforced by the fact that the site is enclosed on three sides by existing built development. Therefore, from the facts on the ground, I concur with the appellant's suggestion that this is garden land within the confines of the settlement of Old Wives Lee.

5. The surrounding residential development provides a variety of scale, form and heights, including some newer properties, many of which have their primary elevations on Lower Lees Road or Bowerland Lane. This is an important characteristic in the wider settlement of Old Wives Lee where residential properties, in the main, face onto the highway in rows and/or short cul-de-sacs.
6. The proposal is for the erection of a large 5-bedroom dwelling in the former rear gardens of Beauwell and Myrtle Cottage; properties which, with neighbouring dwellings, face onto Bowerland Lane.
7. In this respect the proposal would appear to be a back-land form of development and harmfully at odds with the prevailing pattern in this settlement. This harm would be further compounded by the fact that the proposal requests a disproportionately substantial dwelling by bulk, mass and height that would not face onto a highway and be accessed by a track that serves properties to the rear of Lower Lees Road. Moreover, the harm of this uncharacteristic back-land siting would be further exacerbated by the fact that the access track to it also serves a public right of way and hence would be visible to those passing by. As such, the uncharacteristic back-land siting of the proposal would make it incongruous within the existing pattern of development.
8. Therefore, the proposal is contrary to ALP Policy HOU10 and paragraph 127 of the National Planning Policy Framework which seek amongst other things that development should be sympathetic to the character of an area including the surrounding grain and built pattern.

ii) Living Conditions

9. Despite the presence of garages and other out-buildings, the relatively large site, in combination with other gardens to the rear of Lower Lees Road, provides a feeling of spaciousness to the area. Accordingly, the site is sufficient to accommodate the proposal without compromising separation distances, outlook or creating a sense of enclosure. As such the proposed development would not have a materially harmful effect on the living conditions of the adjoining properties.
10. Therefore, the proposal would not conflict with ALP Policy HOU10 which requires development to provide visual separation between dwellings.

iii) Accessibility to local services

11. Whilst I note that the Council consider the appeal site to sit outside of the built confines of any identified town or village; the proposal, as set out above, would nonetheless be within the confines of Old Wives Lee.
12. I also acknowledge that there might not be many services within Old Wives Lee. However, at a relatively short distance there are expected day to day services in the settlement of Chilham, and further afield in Canterbury.
13. As such the proposal accords with Policies SP1 and HOU5 of the ALP which state that sustainable development adjoining, or close to the existing built up confines of Chilham, will be acceptable provided the level, type and quality of day to day services are available and accessible.

14. For similar reasons, the proposal accords with Paragraph 78 of the Framework which requires sustainable development in rural areas where it will enhance or maintain the vitality of rural communities.

Other Matters

15. I give some limited weight to the potential 'fall-back' position for the erection of an ancillary building under permitted development rights. However, the scheme before me is for a more prominent two-storey dwelling of a very different character and nature to ancillary buildings permissible in its place.

Conclusion

16. Whilst I have found no material harm in respect of living conditions and accessibility this does not overcome the significant harm found in regard to the effect of the proposal on the character and appearance of the area. The proposal would conflict with the development plan when taken as a whole, and for the reasons given above, I conclude that the appeal should be dismissed.

J E JOLLY

INSPECTOR