
Appeal Decision

Site visit made on 18 August 2020

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 28 August 2020

Appeal Ref: APP/E2205/W/20/3249727

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 Mr P Kang against the decision of Ashford Borough Council.
 - The application Ref 19/00445/AS, dated 27 March 2019, was refused by the Council by notice dated 21 November 2019.
 - The development proposed is demolition of existing dwelling and erection of x2 dwellings.
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Decision

1. I allow the appeal and grant planning permission for demolition of existing dwelling and erection of x2 dwellings at Millgarth, The Hill, Charing TN27 0LU in accordance with the terms of the application, Ref 19/00445/AS, dated 27 March 2019, subject to conditions 1) to 14) on the attached schedule.

Preliminary Matters

2. The Council made the Decision based on drawings with revisions 'A' that showed 3 parking spaces for each dwelling in line with Policy TRA3a. Amended drawings 02B and 03B have been presented at appeal showing only 2 spaces per house and the Council have stated that this would not be acceptable. In line with the 'Wheatcroft' principles, this change will be considered as an alternative.

Main Issue

3. This is the effect of the proposal on the character and appearance of The Hill area of Charing.

Reasons

4. Local Plan Policy SP1 states the strategic objectives of conserving the natural environment and creating the highest quality design, while Policy SP2 details the strategic approach to housing delivery and Policy SP6 sets out the considerations to promote that design quality. Residential windfall development within settlements is the subject of Policy HOU3a, with Charing being in the list of acceptable settlements subject to 8 requirements, including being of a layout, design and appearance that is appropriate to and compatible with the character and density of the surrounding area. Policy HOU10 concerns development of residential gardens, where complete or partial redevelopment will be permitted subject to Policy HOU3a and not resulting in significant harm

- to the character of the area, including the surrounding grain and built pattern of development, and there is reference to plot sizes also.
5. Paragraph 124 of the 2019 National Planning Policy Framework states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
 6. The draft Regulation 14 version of the Charing Neighbourhood Plan is at an early stage, and the Parish Council accept that this carries only limited weight. Nevertheless, the quoted Policies H11 and D1 on being sympathetic to the scale, style and location of the surrounding area and seeking high quality design are not dissimilar to adopted and national policy.
 7. There have been 2 recent appeals for development having an identical description to that now proposed, and both were dismissed by the same Inspector (refs APP/E2205/W/19/3225552 and 3225560, both dated 19 July 2019). In both cases the Inspector concluded that the proposal would be detrimental to the character, appearance, distinctiveness and sense of place of the area due to its width relative to the appeal site and plot size. In addition, in the first numbered appeal the height and overall bulk was identified as a failing, while in the second appeal this was replaced by the extent of the proposed driveway and parking area.
 8. That Inspector referred to a planning permission for a single replacement house as a 'fall-back' (Reference 19/00610/AS). The Council accept in submissions to the current appeal that the proposed development would be similar in appearance when viewed from the road save for minor amendments, and while there would be 2 vehicle entrances from The Hill in that scheme, there would still be a significant area of hardstanding to the front in order to serve the single dwelling. That permission is extant and capable of being carried out and remains a viable 'fall-back'.
 9. The principle of replacing the present bungalow has been established and the design proposed now would disguise the actual nature of the development by placing one of the entrance doors to the side. Apart from being similar to an extant permission, the size of building, disposition on the site and amount of original plot width taken up would be wholly consistent with the general grain of development, while the difference in levels that is a feature of the area would allow the new building to be successfully assimilated in the street scene.
 10. As to the proposed plot width, the manifestation of that to the rear with 2 gardens, would not been apparent from the public realm and the possible difference in activity and the effect on the character of the area would be limited and acceptable.
 11. The Parish Council raises issues that are considered to undermine what they describe as a 'subterfuge', if not immediately but in the future were differing external paint colours and re-decoration regimes be adopted as well as differing window treatments across the 2 dwellings. That is a situation that could not reasonable be conditioned or enforced against, but at the distance concerned and having mind to the nature of the design, that eventuality would not cause significant harm to the character of the area, as sought to be avoided in Policy HOU10.

12. The main difference between the extant permission and that now proposed would be in the access and parking, the former being 2 points for the single house but one for the two houses, which would appear to signal less of a division of the site than as permitted, and the reduction in plot width would not be readily apparent in the hard landscaping.
13. That leaves car parking to be considered. Whilst there is unrestricted parking on The Hill, and the site is placed in an accessible location, not far from the facilities of Charing with its transport links, there does not appear to be a pressing reason to allow less than the 3 spaces a house sought in Policy TRA3a. The site is large enough to accommodate that number and there would remain sufficient room for vegetation along the frontage. The effect of car parking provision would not be noticeably different from that already permitted, with two access points and an expanse of hardstanding, and the requirements of Policy TRA3a should prevail. There is as a result no conflict between parking policies and design policies.
14. Having mind to the nature of the surroundings, the extant permission and the details shown on the 'A' revision drawings, the proposal would accord with the requirements of Policy HOU3a in proposing a layout, design and appearance that is appropriate to and compatible with the character and density of the surrounding area; would not harm the amenity of existing residents; does not result in the loss of public or private land that contributes to the local character; would not harm the landscape, heritage of biodiversity; has a safe access; does not need substantial infrastructure; does not propose unsafe lighting or pedestrian access; and would not displace an active use. Policies SP1 and SP6 would be met and there would be no discernible harm through the plot size as sought in Policy HOU10.

Conditions

15. It is necessary to control the materials used in the new building, and further details of landscaping should be provided, both to ensure the satisfactory quality of development and its effect on the character and appearance of the area. Obscure glazing is to be installed and retained on side-facing bathroom windows to protect privacy and a scheme to enhance biodiversity should be provided in view of the nature of the site at present. Car parking as shown on drawings 02A and 03A will ensure the correct amount initially and its retention. Further conditions on the design of the entry and the use of bound materials is required to ensure highway safety, with cycle accommodation being provided in addition. It is reasonable to seek control of drainage and the use of water, and a condition naming the 'as proposed' drawings is required for the avoidance of doubt.

Conclusions

16. The extant permission for a single house would display only very limited differences in the appearance from the public realm to that now proposed, including the hardstanding. The sub-division of the plot would not be readily apparent subject to the landscaping of the frontage and the design of the single entry.
17. The proposal would provide additional housing in a sustainable location and would meet the criteria of the policy specific to windfall development within Charing. The fact that the Council can demonstrate the required 5-year supply

of housing land does not indicate that acceptable development which meets Development Plan policies should be resisted, and the proposal would assist with housing delivery.

18. The proposal would support the economic objective set out in paragraph 8 of the Framework as it is land of the right type in the right place; the social objective would be met by adding to the number and range of houses in the area to meet need; and by making effective use of land while protecting the environment, the environmental objective would be accorded with. The proposal is for sustainable development and should be approved as set out in the presumption at paragraph 11. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

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: 03A, 04A, 05A, 06A, 07A, 08A and 09B.
- 3) Prior to any development commencing above ground level, written details including source/manufacturer, and samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority and the development shall be carried out using only the approved external materials.
- 4) Prior to any development commencing above ground level a hard and soft landscaping scheme for the site (which may include entirely new planting, retention of existing planting or a combination of both) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. Any trees or other 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 a similar size and species unless the Local Planning Authority give prior written consent to any variation.
- 5) The first-floor side bathroom windows shall be fitted with obscured glass (privacy level/grade 3 or higher) and shall be non-opening up to a minimum height of 1.7 m above internal floor level. This specification shall be complied with before the development is occupied and thereafter be retained.

- 6) Prior to any development commencing above ground level, a scheme for the enhancement of biodiversity on the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall have regard to the general enhancement of biodiversity and shall include wildlife friendly planting and bird boxes. The development shall then be implemented in accordance with the approved proposals and maintained for the lifetime of the development.
- 7) The areas shown on drawing no. 02A and 03A as vehicle parking and turning for the new dwellings shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to these parking spaces.
- 8) The first 5m of the access from the edge of the highway shall be surfaced in a bound material.
- 9) The access hereby permitted shall not be brought into use until the approved visibility splays have been provided and shall be permanently maintained as such thereafter with no obstructions over 1.05m above carriageway level within these splays in accordance with the approved details.
- 10) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out within Classes A - E of Part 1 and Class A of Part 2 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without prior approval of the Local Planning Authority.
- 11) Prior to the occupation of the proposed dwellings, details of secure, covered cycle storage (including elevations) shall be submitted to and approved in writing by the Local Planning Authority on a ratio of one space per bedroom. The development shall then be carried out in accordance with the approved details.
- 12) The proposed development shall be designed in accordance with the principles of sustainable urban drainage and maintained in accordance with these details.
- 13) None of the dwellings shall be occupied until works for the disposal of sewage have been provided on the site to serve the development hereby permitted, in accordance with details to be submitted to and approved in writing by the Local Planning Authority.
- 14) The development shall achieve an estimated water use of no more than 110l per person per day.