



Appeal Decision

Site visit made on 23 November 2020

by Sarah Colebourne MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31/12/2020

Appeal Ref: APP/M1595/W/20/3253192

Land adjacent Helleborine and Meesons Lane, Grays, Essex, RM17 5JJ

- 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 ZED Pods Ltd against the decision of the Thurrock Borough Council.
 - The application Ref 18/00551/FUL, dated 26 March 2018, was refused by notice dated 14 February 2020.
 - The development proposed is the development of 8 no new two bedroom semi-detached low carbon dwellings with associated access, car parking and amenity areas.
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Decision

1. The appeal is allowed and planning permission is granted for 8 no new two bedroom semi-detached low carbon dwellings with associated access, car parking and amenity areas at land adjacent Helleborine and Meesons Lane, Grays, Essex, RM17 5JJ in accordance with the terms of the application, Ref 18/00551/FUL, dated 26 March 2018, subject to the attached conditions.

Procedural matter

2. The application originally proposed ten dwellings in two terraced blocks but during the course of the application was amended to eight semi-detached dwellings. I have determined the proposal on this basis.

Main issues

3. The main issue in this case are the effect of the proposed development on:-
 - the character and appearance of the area;
 - the living conditions of the future occupiers with regard to garden areas.

Reasons

Character and appearance

4. The appeal site is located within a residential area of Grays on the edge of the Badgers Dene estate. The site forms a steeply sloping area of land with tall trees and planting along the boundaries with a private drive on Meeson Lane and with open space on Helleborine, a residential cul-de-sac.
5. The proposed development has been designed to be a low/zero energy, zero carbon development. There would be two proposed access points from the southern end of Helleborine and the dwellings would be regularly spaced along

one side of the access road, facing Helleborine. The three storey dwellings would be set into the slope with a pitched roof, with parking at ground level and pedestrian access via steps or a lift to first floor entrances. Both roof slopes would have solar PV panels. The principal, front elevations would face across the access road towards Helleborine and the rear gardens would back onto Meesons Lane. The dwellings would have a uniform, contemporary appearance with external cladding materials (the appellant proposed cement-based cladding and a cement-based roof finish in the application but during the appeal has suggested various cladding options), aluminium clad timber doors and windows and metal detailing on the pedestrian access platform. The principal front elevation would be seen from Helleborine through the existing tall trees and the second floor and roof on the rear elevation would be seen through trees from Meesons Lane.

6. The Council and local residents consider that the scheme would not reflect the character of Badgers Dene. The estate was built in the 1980s and has a suburban character of modest, two storey dwellings set on culs-de-sac off a central spine road. It is surrounded by areas of wooded open space. Although well maintained, the existing dwellings are unexceptional in their character and appearance and I see no need to replicate or reflect their design. Furthermore, the sloping topography of the site, its setting behind tall trees and its significant degree of separation from nearby dwellings by the intervening open space distinguishes it from the estate and requires a different approach. Whilst the scale, mass, contemporary style, materials and detailing would differ from those of the two storey, brick and tile houses on the estate, given its individual context, I find that the proposed development is of a high quality design that would sit comfortably within the site and enhance its surroundings. The proposed cladding, roof finish and doors/windows are acceptable in principle but as full details have not been provided, a condition for external materials requiring the approval of details would ensure an attractive appearance.
7. I conclude then that the proposed development would not harm the character or appearance of the area and would accord with development plan policies CSTP22, CSTP23 and PMD2 in the Council's Core Strategy and Policies for Management of Development (as amended) 2015 (CS) which require that development is of a high quality design, protects the character of the area and contributes positively creating a sense of place.

Living conditions

8. The proposed dwellings would have west-facing rear garden areas of between 34 and 92 sq m. Most have stepped, terraced gardens and I have noted that two of the plots have gardens of only 3.5m and 4m in depth. Policy PMD2 in the Council's Core Strategy and Policies for Management of Development (as amended) 2015 seeks to ensure that proposals provide adequate public and private amenity space in accordance with Thurrock's relevant adopted standards. The Council's saved Annex 1.2 of the Thurrock Borough Local Plan 1997 requires a minimum level of 100 sq m of private amenity space for dwellings of this size. The proposed garden areas are clearly below that level.
9. However, despite the small size of the gardens, they would provide a private space for outdoor use such as sitting out and drying washing, with some late afternoon and evening sun and an attractive outlook towards the trees on Meesons Lane. Additionally, as the site adjoins an area of informal open space

with an additional area on the opposite side of Helleborine and there is a recreation ground very close by which is accessible from the opposite side of Meesons Lane, future occupiers would have very good access to areas for play and exercise. I conclude, therefore, that the proposed development would provide an acceptable level and quality of garden space and would not harm the living conditions of the future occupiers. The accessibility of the site to areas of open space is a significant material consideration which outweighs the conflict with the Council's policies in this respect.

Other matters

10. I have noted the many objections to the proposal from local residents which include highways, ecology and other matters but the Council has raised no objection to those matters. I am satisfied from what I have seen that, subject to the conditions referred to below, which would sufficiently mitigate the impact of the development, the proposal would not cause harm in those terms.

Conditions

11. The Council has suggested a number of conditions should the proposed development be acceptable. I have amended, combined or substituted some of those for reasons of precision and clarity. In addition to the standard commencement condition, a condition is necessary requiring that the development is carried out in accordance with the approved plans, in order to provide certainty. A condition requiring further details of external materials is necessary in the interests of the character and appearance of the area. Landscaping and tree protection conditions are necessary for the same reason. A condition requiring a biodiversity scheme is necessary to ensure provision for the conservation and enhancement of the site's biodiversity interest. Details of access provision and the provision of parking facilities are necessary in the interests of highway safety. A Construction Method Statement is also necessary for that reason, to avoid pollution and to ensure that a suitable surface water drainage strategy is agreed and implemented and that flood risk interests are adequately managed during construction. A sustainable surface water drainage strategy also is required for the longer term for the same reason. Bins stores are necessary prior to occupation in the interests of the amenity of the occupiers and to avoid pollution. Further details of measures to demonstrate how the development generates its energy needs are necessary to secure an environmentally sensitive development.
12. Separate conditions for tree protection fencing and hand dug excavations are unnecessary in view of the conditions for landscaping and tree protection. I have no evidence before me that a condition for flood warning is necessary. The Planning Practice Guidance advises against the use of conditions to restrict permitted development unless there are exceptional circumstances. I am not persuaded that there is sufficient justification in this case for such conditions.

Conclusion

13. For these reasons, I conclude that the proposed development should be allowed subject to the conditions in the attached schedule.

Sarah Colebourne

Inspector

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and details: 002E, 003C, 200D, 201C, 003, Design and Access Statement, 001J, 001K, Ecology Report (April 2018) by AA Environmental Limited.
- 3) Notwithstanding condition no 2, no development shall take place until details of the external materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) No development shall commence until there shall have been submitted to and approved in writing by the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development in accordance with an Arboricultural Method Statement and a programme of maintenance. All planting, seeding or turfing comprised in the approved details of landscaping shall be in accordance with the biodiversity plan approved under condition 6, and shall be carried out in the first planting and seeding seasons following the commencement of the development (or such other period as may be agreed in writing with the local planning authority) and any trees or 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 similar size and species unless the local planning authority gives written consent to any variation.
- 5) The details submitted in accordance with condition 4 above shall include: a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed; a schedule in relation to every tree identified listing: information as specified in paragraph 4.4.2.5 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and, any proposed pruning, felling or other work; in relation to every existing tree identified to be retained on the plan referred to in i) above, details of: any proposed alterations to existing ground levels, and of the position of any proposed excavation, that might affect the root protection area; and, all appropriate tree protection measures required before and during the course of development (in accordance with paragraph 5.5 of British Standard BS 5837) (or in an equivalent British Standard if replaced); areas of existing landscaping to be protected from construction operations and the method of protection. [In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 6) Prior to the commencement of development, a 'Biodiversity Management Plan' shall be submitted to, and approved in writing by, the local planning authority. The Biodiversity Management Plan shall have regard to the recommendations and proposed mitigation strategy contained within the submitted Ecology Report (April 2018) by AA Environmental Limited accompanying the planning application, and shall include details of:
 - I. any further survey work undertaken [including reptile and invertebrate surveys], the methodology, timing and findings of these surveys and how they have informed the measures outlined in the Biodiversity Management Plan;

- II. methodologies for translocation of protected species [where relevant];
- III. suitable receptor areas together with evidence produced by an ecologist that the receptor areas are capable of supporting the population displaced;
- IV. the methods for the protection of existing species in situ [where relevant];
- V. any seeding, planting and methods to promote habitat creation and establishment or habitat enhancement including bat and bird boxes;
- VI. general ecological mitigation applying to the timing/ program of construction works;
- VII. an assessment of the works required for management and who will undertake such works.

The Biodiversity Management Plan shall be implemented in accordance with the approved plan and timescale. Any translocation undertaken shall be verified in writing to the local planning authority by an independent qualified ecologist within 28 days of undertaking the translocation.

- 7) No development shall take place until details of the access road, footway and cycleway, sight splays (for the junctions and for vehicular accesses) and speed reduction details have been submitted to and agreed in writing by the local planning authority. No dwelling shall be occupied until those details have been constructed as approved. The details shall be retained thereafter.
- 8) The parking areas for each respective dwelling shall be provided before they are occupied, and shall thereafter be retained for the purposes of parking/turning, and in the approved form, unless otherwise agreed in writing by the local planning authority.
- 9) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall include, but is not limited to, details of:
 - (a) Hours and duration of works on site;
 - (b) Wheel washing and sheeting of vehicles transporting aggregates on to or off of the site;
 - (c) Details of construction access;
 - (d) Details of temporary hard standing;
 - (e) Details of temporary hoarding;
 - (f) Water management including waste water and surface water drainage;
 - (g) Road condition surveys before demolition and after construction is completed; with assurances that any degradation of existing surfaces will be remediated as part of the development proposals. Extents of road condition surveys to be agreed as part of this CMS;
 - (h) Details of method to control wind-blown dust.

All works and development shall be carried out in accordance with the approved CMS and the measures contained therein.

- 10) No dwelling hereby permitted shall be occupied until surface water drainage works shall have been implemented in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Before any

details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, having regard to Defra's non-statutory technical standards for sustainable drainage systems (or any subsequent version), and the results of the assessment shall have been provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall: provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters; include a timetable for its implementation; and, provide, a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime. The sustainable drainage system shall be implemented and thereafter managed and maintained in accordance with the approved details.

- 11) The bin and recycling stores as approved shall be provided prior to the first occupation of any of the residential units they serve and shall be constructed and permanently retained in the approved form, unless otherwise agreed in writing by the local planning authority.
- 12) Prior to the commencement of development, details of measures to demonstrate how the development generates its energy needs through the use of decentralised, renewable or low carbon technologies shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented and operational upon the first use or occupation of the buildings hereby permitted and shall thereafter be retained in the agreed form unless otherwise agreed in writing by the local planning authority.