



Appeal Decision

Site visit made on 9 November 2021

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2021

Appeal Ref: APP/E2205/W/20/3253861

Land SE of Plum Trees, Bowerland Lane, Chilham

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval of details required by a condition of an outline planning permission.
 - The appeal is made by Mr & Mrs Russell against the decision of Ashford Borough Council.
 - The application Ref 19/01342/AS, dated 17 September 2019, was refused by notice dated 9 December 2019.
 - The development proposed is described as This application seeks approval of details of the layout, scale, landscaping and appearance (hereafter called "the Reserved Matters"), as set out by Condition 1.
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Decision

1. The appeal is allowed, and the reserved matters are approved, namely the details of layout, scale, appearance, and landscaping, submitted in pursuance of condition Nos. 1 and 9 attached to planning permission Ref. 18/01569/AS dated 10 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans/drawings and document Refs.: Site location plan 19_31_PL01; Existing block plan 19_31_PL02; Proposed block plan 19_31_PL03; Proposed plans and elevations Plot 01 19_31_PL04; Proposed plans and elevations Plot 02 19_31_PL05; Planning, Design and Access Statement to discharge conditions 1 and 9 of Planning Permission 18/01569/AS, DHA, Sept 2019; Sections 2 – 5 and Appendices A and B of the Landscape & Ecological Management Plan (July 2019) by Greenspace Ecological Solutions; T-01 P2 Vehicle swept path analysis for refuse vehicle.
 - 2) Written details including the source and manufacturer, and samples of bricks, tiles, and cladding materials to be used externally in the construction of the development hereby permitted shall have been submitted to and approved in writing by the Local Planning Authority, before development approved by this permission takes place above slab level. The development shall be carried out using the approved external materials.
 - 3) The car barn/car ports hereby permitted shall remain open to the front elevation and no means of enclosure or doors shall be erected or inserted, without the prior written approval of the Local Planning Authority.

Procedural Matters

2. The description of development in the banner heading above is taken from the planning application form. In my decision paragraph I have used the description from the Council's decision notice and the appellant's appeal form, which more succinctly describes the proposals before me.
3. The appeal proposal seeks to discharge conditions 1 and 9 (reserved matters) of outline planning permission Ref 18/01569/AS. Since that application was lodged a subsequent reserved matters application was approved by the Council (20/00237/AS) on 3 June 2020. At my visit a structure of one dwelling had been substantially completed, and the foundation and ground storey structure of the other dwelling had been constructed, which I understand to be in general compliance with the approved reserved matters application.
4. A number of other conditions attached to permission Ref 18/01569/AS have been discharged in relation to reserved matters application 20/00237/AS. I have sought the Council's and the appellants views on the implications of these for my decision upon this proposal and had regard to them in the determination of this appeal.
5. The revised National Planning Policy Framework (2021) (the Framework) was published on 20 July 2021. I have given the Council and the appellant the opportunity to comment upon the implications of this for their respective cases.

Main Issue

6. The main issue is the effect of the proposed development upon the character and appearance of the area.

Reasons

7. The appeal site formed part of a large rear garden of a nearby dwelling, with maturely landscaped boundaries to its north and south. It is part bound by public rights of way AE12 and AE13 on two sides but is surrounded by residential dwellings on its north, east, and western sides. These and other dwellings nearby within its visual context take a manner of forms, from one to two and a half storey dwellings, that are detached, semi-detached or short terraces, and are of a variety of different scales, ages, and vernaculars. Therefore, there is not one overriding style or character in the area.
8. I have been referred to other developments nearby, such as Cotton Tail and Owl Cottages, and Glebe Orchard Barns. As I do not have the full details of the circumstances of their approval before me, I cannot make a direct comparison with the appeal proposal, which I must consider on its own merits. However, some have now been built out and form part of the context in which the appeal site is viewed and contribute to the character and appearance of the area.
9. While the site may fall outside the settlement confines, the principle of the development is established by the outline permission. Given their proximity, intervisibility and visual relationship, surrounding dwellings result in a prevailing grain and scale of development that is mixed. The context includes recently constructed sizeable two storey dwellings at Glebe Orchard Barns close to the eastern boundary, as well as some on Cobbs Hill and Bowerland Lane. Therefore, I cannot agree the prevailing grain and scale is set only by Plum

Trees. The appeal site makes a neutral contribution to the character and appearance of the area.

10. The new dwellings would be 'L' shaped with 4 bedrooms integrating double garaging spaces, 2 external parking spaces, and amongst other things cycles storage. One would be constructed in brick and clay tiles and the other with part render, weatherboarding, brickwork, and clay tiles. These materials would be reflective of those used on properties in proximity to the appeal site. While the proposed dwellings are larger than those indicated in the outline scheme, the details were indicative only and the Council chose not to restrict the floorspace. The dwellings would comply with the requirements of condition 6 of the outline permission.
11. The appeal site is located to the south of Bowerland Lane screened from the wider countryside by a number of dwellings and surrounding vegetation, and most of the surrounding dwellings are on a similar or higher land level. The position and scale of surrounding dwellings and landscape features, mean the new dwellings would not be unduly prominent, and appear lower than those at Glebe Orchard. While there would be close proximity visibility from the adjoining public footpaths, wider visibility from Cobbs Hill, Bowerland Lane and the wider undeveloped rural area, including the Kent Downs AONB would be significantly limited.
12. The arrangement of features, appearance and layout is described as 'suburban' by the Council. The height, 'L' shape including open carports, fenestration, and use of dormers means the bulk and mass of the dwellings would be limited and they would not appear unduly bulky or large in their context. There are dormers visible on dwellings on Cobbs Hill (Lees Terrace) and on Bowerland Lane, which include 'L' shape dwellings, and sizeable hardstandings at Glebe Orchard. Therefore, I do not regard the appearance and position of the dwellings to be out of keeping with the character and appearance of the area.
13. There are a wide variety of plot ratios and depths nearby. The generous site size, approximately 8m gap between dwellings, 12m deep rear gardens, similar distance to the eastern boundary and 7m – 20m from the sides, means there would not be an appearance of either a higher density, overdevelopment or dwellings that are cramped within their plot. Having regard to this, the position and scale of surrounding dwellings and the retention of existing landscape features, the development would contribute to a satisfactory transition into the countryside beyond and not detract from it. It would also not be harmful to the setting of the Kent Downs AONB.
14. For the reasons set out above the development would not be harmful to the character and appearance of the area. It would not conflict with Policies HOU3a, HOU10, SP6 or ENV3a of the Ashford Local Plan (2019) (the Local Plan). In combination and amongst other things these seek to ensure that development is of a high standard of design that has regard to and is in keeping with the landscape and the built environment of the appeal site and the area, including the setting of the AONB. This includes with reference to landscape significance and features, surrounding grain, pattern of development, layout, design, and appearance.
15. The Council's reason for refusal makes reference to a conflict with the Framework and the Council's Landscape Character Supplementary Planning Document (2011) (the LCSPD), although no specific references are provided. I

do not find a conflict with the Framework insofar as it seeks to ensure development is sympathetic to local character including the surrounding built environment and landscape setting, and protecting valued landscapes including the setting of the AONB. Similarly, I do not find a conflict with the LCSPD including the aim of promoting regard for the landscape and ensuring new development makes a positive contribution to landscape character.

Other Matters

16. The swept path analysis demonstrates that turning will be possible for a 10.7m refuse collection vehicle to ensure waste collections can take place on the site. The Council is of the view the development makes adequate provision for refuse collection, and based upon the evidence before me, I see no reason to disagree.
17. Policy TR3a of the Local Plan requires a minimum 3 parking spaces are provided per dwelling in a layout compliant with the Residential Parking and Design Guidance Supplementary Planning Document (2010) (the SPD). The Council suggests a conflict due to the tandem nature of the spaces with the carport. Although it has not sought a planning condition in this regard. Tandem parking may result in some inconvenience. However, given there are only two dwellings, each with 4 spaces, the long shared driveway, and the amount of circulation space, the proposed layout could operate satisfactorily without any harmful effects upon highway safety.
18. Two 4 bedroom dwellings and the access has already been approved under an outline permission, so the principle has been established at the appeal site and based upon the evidence before me the permission has been implemented. Having regard to the nature of the access and surrounding highway, I see no substantive evidence that allowing these proposed dwellings would be unacceptable in respect of accessibility or harmful to highway safety, including to pedestrians and those accessing nearby public rights of way.
19. In-light of my findings above there is no substantive evidence demonstrating this development would result in a greater degree of conflict with other development plan policies including in respect of accessibility to, or unacceptable pressure upon, services and facilities. There might be a limited increase in hard surfaces as a result of this development. However, matters in respect of drainage are addressed by conditions (Nos 13 and 14) and associated submissions under the outline planning permission.

Conditions

20. The Council did not include a commencement condition. As this imposed by the outline permission, it is not necessary. A condition requiring the development is carried out in accordance with the approved plans is necessary, to ensure certainty.
21. To ensure a satisfactory appearance, a condition requiring the prior written approval for the external materials is also necessary. However, it is not necessary for this to be a pre-commencement condition. A condition requiring the approval of means of enclosure or doors on the car barn/car ports is previously approved is necessary in the interests of the character and appearance of the area.

22. Informative advice does not carry legal weight and cannot be used in place of a planning condition. As the duties to obtain consent for works in the highway and disturbance of rights of way is the subject of other legislative regimes, it is not necessary for these to be set out as planning conditions.

Conclusion

23. The development is compliant with the development plan and the Framework. There are no material considerations that indicate the application should be determined other than in accordance with the development plan. For the reasons given above, the appeal is allowed.

Dan Szymanski

INSPECTOR