



Appeal Decision

Site visit made on 11 August 2021

by P B Jarvis BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 October 2021

Appeal Ref: APP/D5120/W/20/3265234

Whitehill Cottage, Fairway, Bexleyheath DA6 8LU

- 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 Whitehill Residencies Ltd against the decision of the Council of the London Borough of Bexley.
 - The application Ref 19/00877/FUL, dated 5 April 2019, was refused by notice dated 23 September 2020.
 - The development proposed is the demolition of the existing double garage and erection of two four bed houses, one three bed chalet bungalow and a rear extension to the existing cottage.
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Procedural Matter

1. The updated National Planning Policy Framework (the Framework) was published on the 20 July 2021. The parties have been given the opportunity to comment on this and I have referred to the relevant paragraphs.

Decision

2. The appeal is allowed and planning permission is granted for the demolition of the existing double garage and erection of two four bed houses, one three bed chalet bungalow and a rear extension to existing cottage at Whitehill Cottage, Fairway, Bexleyheath DA6 8LU, in accordance with application ref: 19/00887/FUL dated 5 April 2019 and subject to the conditions set out in the attached schedule at Annex 1.

Main Issue

3. The appeal application was refused on a sole ground relating to highway safety matters. However, having regard to the submitted evidence, it seems to me that this main issue relates the specific impact of the development with regard to vehicular and pedestrian traffic on the following:
 - a) the use of Fairway
 - b) the use of the appeal site access and junction with Fairway.

Reasons

Background

4. The appeal site comprises a sizeable 'backland' site located to the rear of properties which front Fairway, a narrow surfaced private road of around 4 metres width with no footways and which currently serves thirteen properties, including the existing dwelling on the appeal site. It is located off Upton Road,

described as an unclassified local access road by the Council which has traffic calming in the form of speed cushions.

5. The appeal site itself is accessed via a narrow drive of between 2.7–3 metres width which runs between Nos. 2 Lordswood Close, which fronts Fairway but takes access direct from Upton Road, and No 1 Fairway. From my site visit I saw that visibility onto Fairway is limited by existing boundary features at the end of either side of this drive, particularly to the east where the boundary with 2 Lordswood Close is marked by a high fence with tall hedge planting behind.
6. In response to the Council's reason for refusal of the application the Appellant has provided a detailed Transport Technical Note (TTN) and supporting information including highway safety information, relevant technical evidence and information on trip generation and pedestrian movements, including a manual survey of existing site conditions and visibility splay diagrams.
7. The above information suggests that the proposed development will be likely to generate in the region of two additional vehicle trips in the morning peak and evening peak and approximately 15 additional trips across the 12 hour weekday period. The Highway Authority (HA) concluded that a similar level of traffic would be generated, resulting in an additional 2-3 movements in the AM and PM peak. I note that the HA did not object to the proposal, albeit noting some concerns.
8. There has also been a considerable number of local representations which I have taken into account. The principle concerns appear to relate to the main issues identified above, but other matters of concern have been identified.

Use of Fairway

9. The eastern end of Fairway where it meets Upton Road widens slightly but it appears that it is not wide enough to allow two vehicles to pass easily, therefore, vehicles turning into it from Upton Road may have to wait to allow any vehicles to exit. Fairway itself is of restricted width of around 4 metres with limited points at which vehicles can pass one another. Notwithstanding this, there appears to be little evidence to demonstrate that its existing use results in conditions of highway danger, though it is likely to result in conditions of inconvenience when two vehicles meet along it and need to pass.
10. However, the Appellant contends that Fairway is suitable for two-way vehicle trips and pedestrians between Upton Road and the access drive, confirmed by a Road Safety Auditor. In addition, the TTN shows that there is suitable intervisibility between the site access and the junction with Upton Road, although the relevant drawing does not appear to show the full extent of the existing boundary hedge along the northern side of Fairway. Notwithstanding this, should it be necessary, it would be possible for vehicles to 'edge out' slowly to gain the necessary visibility.

The Appellant's TTN also suggests that the appeal proposal would not result in a significant increase in the numbers of vehicles using Fairway concluding that as the additional movements would be limited, the risk of increased conflict would be extremely low. I note that third parties suggest that the total number of vehicle movements throughout the day would be higher than that suggested by the Appellant. However, the overall movements including those

generated by the existing dwellings would remain at a relatively low level such that in my view, the risk of increased conflict would also remain low.

Use of the accessway into / out of the appeal site

11. It is agreed that the driveway into the site off Fairway is of insufficient width to allow two cars to pass, it being a maximum of 3 metres width. The Appellant has suggested that signs could be erected at the entrance to the drive where it meets Fairway to clarify that vehicles entering the site have priority over those leaving. A passing bay would be provided within the site at the far northern end of the drive. As the driveway is relatively straight, vehicles leaving the site would have sight of any vehicles entering and would therefore have to wait until they had entered the site before exiting. The priority arrangement would mean that cars leaving the site would, if necessary, have to reverse back to the passing bay to allow vehicles to enter the site. I consider that this would be acceptable given the likely low frequency of such events occurring.
12. There would be room within the site for vehicles to turn to enable them to leave in forward gear. Third parties suggest that this area could be compromised by the position and size of the proposed parking spaces, but the submitted plans show how vehicles would be accommodated and it would be in the interests of the occupants of the proposed dwellings to ensure that cars did not obstruct its use.
13. I note that the Appellant has indicated that a path, to be surfaced in a contrasting material, could be accommodated alongside the access way so providing a safe route for pedestrians. I would question whether such provision would actually improve safety and note that the Appellant refers to Manual for Streets which indicates that shared surfaces can work well where the volume of traffic is low. In any event, I see no significant safety issue given the likely frequency of vehicular and pedestrian traffic.
14. In terms of visibility at the junction with Fairway, I saw on my site visit that the boundary treatment of the adjoining properties consists of a high hedge to the front of No. 2 Lordswood Close and a 2 metre high fence, and high boundary wall, of around 1.5 metres height along the boundary with No. 1 Fairway. The Appellant has confirmed that he owns the wall along this latter boundary and so it can be reduced in height to improve visibility, which would be of benefit for the occupants of both the appeal site and adjoining property. As noted above, appropriate visibility in the other direction has been demonstrated to be available.
15. Refuse vehicles would not enter the site, and bins would be taken by the residents to the bin collection area on the appropriate day. Although this would mean that bins would have to be wheeled out to Fairway, the Council has confirmed that this would be an acceptable arrangement in this instance.

Conclusion in respect of the main issue

16. Taking into account the low speeds, numbers and frequency of vehicles using Fairway, and the measures that would be put in place to control the use of the accessway into the appeal site, overall, I do not consider that highway safety would be compromised to an unacceptable degree.
17. I therefore find that the proposed development would be served by a safe and suitable access and would not result in harm to highway safety. There would

be no conflict with Policy CS15 of the Bexley Core Strategy (2012) and policies H8 and T6 of the Bexley Unitary Development Plan (2004) (UDP) which seek to ensure that the traffic flows from a development are safely accommodated, that development provides adequate and safe access for vehicles and pedestrians and that the highway network is effectively managed to enable the free flow of traffic.

18. For the reasons set out above, the proposal would also comply with the Framework, in particular paragraph 110, which seeks to ensure that a safe and suitable access to the site can be achieved for all users.

Other Matters

19. It is suggested that the intensification of the junction of Fairway with Upton Road could also compromise highway safety due to the high level of vehicular and pedestrian use along this road. However, appropriate visibility has been confirmed by the Appellant to be achievable at this junction and this was confirmed at my site visit.
20. The proposed parking satisfies adopted standards and I see no justification to require a higher provision. In any event, on street parking is available along Upton Road.
21. It would appear that a number of trees were removed from the site prior to or at the same time as the appeal application was submitted. However, none were the subject of a Tree Preservation Order (TPO) and new replacement planting is proposed as part of the landscaping scheme. Any loss of habitat for biodiversity has been assessed and mitigation recommended to ensure that there is a net gain overall following the completion of the development, which can be secured via condition. The issue of whether any further TPOs should be made is a matter for the Council.
22. Concerns have also been expressed with regard to access for fire emergency vehicles. Whilst this is a matter mainly dealt with through other legislation, it has been demonstrated that additional measures would be taken to ensure that the risks are minimised in this regard.
23. The other concerns relate to the impact on the environment and living conditions of adjoining residents. In my view these can be satisfactorily mitigated through conditions, as discussed below, and overall, I do not consider that the proposal would amount to an overdevelopment of the site. I acknowledge that the garden areas are not as generous as those of many surrounding properties but in my view they would be sufficient to provide an appropriate level of amenity for future occupants.
24. The Framework seeks to promote the effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Overall, in my view, these requirements would be satisfied.

Conditions and Conclusions

25. I have reviewed the list of suggested conditions provided by the Council in light of the tests set out in the Framework and noted the Appellant's comments.

26. A condition to refer the approved plans is necessary in the interests of proper planning.
27. The requirement to submit a Construction Management Plan and Construction Environment Plan is also necessary in the interests of the amenity of local residents and to properly manage the use of the private road and access way during construction and to minimise the impacts of construction on biodiversity. However, it seems to me that there is no need to require any routing details as vehicles would inevitably have to use these roads.
28. With regard to the requirement to install visibility mirrors, I concur with the Appellant that in the above circumstances these are not necessary and, in any event, are rarely a suitable solution. However, a condition to require the lowering of the boundary wall adjoining No. 1 Fairway is necessary in the interests of highway safety. Details of materials, bin and recycling storage, hard and soft landscaping, boundary treatments and Secured by Design are all necessary in the interests of the amenity of the area and to provide a satisfactory living environment for future occupiers and in the case of landscaping, to enhance biodiversity and maintain the visual amenity of the area. The provision of water butts and details of water efficiency measures are necessary to minimise the impact of the development on the environment and the provision of mitigation measures to enhance biodiversity are necessary to ensure an overall net gain.
29. I consider that the suggested lighting condition goes beyond what would be reasonable to control in a domestic environment; however, given its length, location and nature, details of any lighting to be installed along the access way should be controlled in the interests of the visual amenity of the area.
30. Conditions are also necessary to require the provision of appropriately sized car parking spaces to enable cars to park clear of the turning area. Conditions to secure the provision of electric vehicle charging points and the cycle parking stores is necessary in order to promote the use of more sustainable modes.
31. Further details of the bin storage and collection areas are needed to ensure that they are of suitable size and do not obstruct the use of the accessway.
32. The restriction of further roof additions, the insertion of windows in those dwellings located close to the boundaries and use of obscure glazing is necessary to protect the privacy and amenity of the occupants of adjoining properties, given the backland nature of the site.
33. The Council has provided little justification for the suggested contamination condition and given the appellant's detailed report which demonstrates that no further actions are needed, there appears to be no need for such a condition.
34. A condition to secure accessible and adaptable dwellings is necessary in the interests of providing inclusive dwellings.
35. Having regard to all relevant matters, I conclude that subject to the imposition of conditions as discussed above and set out in the annex below, this appeal should be allowed and planning permission granted.

P Jarvis

INSPECTOR

ANNEX 1: SCHEDULE OF CONDITIONS

1. The development hereby permitted shall be begun within 3 years from the date of this permission.
2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans, being Drawing No.'s PL 100 C, PL102 L, PL 104 C, PL 200 B, PL 201 A, PL 203 A, PL 301, PL 400 C, PL 401 A, PL 402 A, PL 403 B, and ACLA/BJX 01 Rev. E.
3. Development shall not commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:

- a) The location of notice boards on the site to include details of the site manager, including contact details (phone, facsimile, email, postal address) and 'out of hours' contact details;
- b) A strategy for the parking of vehicles of site operatives and visitors;
- c) A strategy for the loading and unloading of plant and materials;
- d) Details of days/hours of work and deliveries of construction materials;
- e) Numbers and timing of vehicle deliveries throughout the day;
- f) Vehicle holding areas;
- h) Procedures including wheel washing for controlling sediment runoff, dust and the removal of soil, debris and demolition and construction materials from Fairway and public roads or places;
- i) Details of measures to be undertaken to minimise the risk of any damage occurring to Fairway
- j) Details of measures to be undertaken to minimise the risk of any damage occurring to boundary treatments.

The development hereby permitted shall only be carried out in accordance with the approved details.

4. Prior to the commencement of development (excluding demolition), further details of electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. The agreed details shall be implemented prior to the occupation of the dwelling which they serve and shall be permanently maintained and available for use thereafter.
5. Development other than demolition shall not commence until details of arrangements for storage of refuse (including means of enclosure for the area concerned) have been submitted to, and approved in writing by, the Local Planning Authority. The approved arrangements shall be completed before any dwelling is first occupied and shall be permanently maintained thereafter.
6. Notwithstanding the approved drawings, prior to the commencement of above ground works written details of all finishes and samples of the materials to be

used in the approved development shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:

- a) Brickwork (including bonding and mortar);
- b) Cladding;
- c) Render;
- d) Windows and doors (including reveals and frames);
- e) Soffits;
- f) Roofing materials.

The development shall be carried out in accordance with the approved details.

7. The new planting scheme as indicated on drawing ACLA/BJX 01 Rev E shall be carried out in the first planting and/or seeding season following the first occupation of the development and shall comply with the requirements specified in BS 3936 (1992) 'Specification of Nursery Stock Part 1 Trees and Shrubs', and in BS 4428 (1989) 'Recommendations for General Landscape Operations'. None of the new trees, plants or shrubs planted shall be lopped or topped within a period of five years from the completion of the development without the prior written approval of the Local Planning Authority.

Any trees, plants or shrubs, which, within a period of five years from the completion of the development die, are removed, or become seriously damaged or diseased, shall be replaced in the next planting season.

Prior to above ground works, a maintenance plan shall be submitted to and approved in writing by the Local Planning Authority, which shall demonstrate how the soft landscaping will be maintained in perpetuity. The development shall be maintained in accordance with the approved details.

8. Prior to the commencement of any above ground works written details of a hard landscaping and boundary treatment scheme shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
- a) Finished levels, materials and a maintenance plan to demonstrate how the hard landscaping features within communal areas will be repaired/replaced over time;
 - b) All details of any fencing, gates, walls or other means of enclosure within the development and along its boundaries.

The hard landscaping and boundary treatment scheme shall be installed prior to first occupation of the development hereby approved and shall be maintained thereafter in accordance with the maintenance plan hereby approved.

9. Prior to the commencement of any above ground works, details of rainwater butts shall be submitted to and approved in writing by the Local Planning Authority. The rainwater butts as well as the drainage strategy (dated 14/6/19), shall be installed prior to first occupation of the development hereby approved and shall be maintained thereafter in accordance with the approved details.
10. Prior to the commencement of any above ground works, details to demonstrate that the development can achieve Gold Standard Secured by Design shall be submitted to and approved in writing by the Local Planning Authority, and

where this cannot be achieved, justification for not doing so must be provided in writing and agreed by the Local Planning Authority. The development shall be implemented in accordance with the approved details and shall be maintained as such thereafter.

Within three months of first occupation, evidence that the proposed Secured by Design measures have been achieved shall be provided in writing to the Local Planning Authority.

- 11.No dwelling shall be occupied until the first two piers and intervening length of the boundary wall between the site access drive and No. 1 Fairway have been reduced to no more than 0.6m in height. It shall be permanently maintained as such thereafter.
- 12.No dwelling shall be occupied until the cycle store and bin store for that dwelling have been provided in accordance with full details that shall have first been submitted to and approved in writing by the Local Planning Authority. Those areas shall thereafter be retained as such.
- 13.No dwelling shall be occupied until the development complies with Building Regulations Optional Requirement Approved Document G2 – Water efficiency (2015 edition) and before occupation may take place evidence of compliance shall be notified to the building control body appointed for the development in the appropriate Full Plans Application, or Building Notice, or Initial Notice to enable the building control body to check compliance.
- 14.Prior to the installation of any external lighting along the access way, details, including the location, specification, fixtures and fittings, measures to reduce light spillage, and the maintenance of such external lighting, shall be submitted to and approved in writing by the Local Planning Authority. The details shall demonstrate compliance with the Institution of Lighting Professionals (ILP) Guidance for the Reduction of Obtrusive Light and other relevant ILP Guidance Notes. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.
- 15.Prior to the commencement of any above ground works, full details of the siting of bird boxes, bat tubes, bee bricks and log piles shall be submitted to and approved in writing by the Local Planning Authority. Bird nesting boxes/bricks should be suitable for urban living bird species. The details shall include the exact location, number, specification and design of the habitats. The boxes/bricks/log piles shall be installed within the development in accordance with the approved details, prior to the first occupation of the building to which they form part or the first use of the space in which they are contained and shall be maintained as such thereafter.

The proposed development shall also be carried out in accordance with the mitigation measures contained within the submitted Ecological Impact Plan Rev A, published by ECOSA Ltd, dated October 2019. This may include the need for updated site surveys as indicated in the above plan.

- 16.Before the development is first brought into use the access to the site from Fairway and the turning area within the site shall be constructed in accordance with a design and specification (including details of proposed signage) which has been submitted to, and approved in writing by, the Local Planning Authority.

17. All works on and around areas of the site with trees to be retained (including those in neighbouring sites), shall comply with BS 5837:2012 - Trees in relation to design, demolition and construction.
18. Each new dwelling hereby permitted (that is units 2, 3 and 4) shall be built to comply with Building Regulations Optional Requirement Approved Document M4 (2) Category 2: Accessible and adaptable dwellings (2015 edition) and evidence of compliance with those requirements shall be provided to the Local Planning Authority before any dwelling to which it relates is occupied.
19. The parking spaces shown on plan PL102 Rev. L shall be constructed to the minimum dimensions of 2.4m x 4.8m and only used thereafter for the parking of vehicles associated with the dwelling to which they relate.
20. Notwithstanding the provisions of Class B of Part 1 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending, revoking and re-enacting this Order) no enlargement consisting of the addition or alteration of the roof of any of the dwellings the subject of this permission shall be carried out.
21. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Statutory Instrument revoking, re-enacting or amending that Order), no further windows or other openings shall be inserted at first floor level in the eastern and western elevations of Units 3 and 4, or in the northern and southern elevations of Unit 2 at first floor level, other than those shown in the approved plans which shall be fitted with glass that has been obscured in the manufacturing process to Pilkington level 3 or higher (or equivalent) and shall be permanently fixed non-openable below a height of 1.7m above the finished floor level of the rooms they serve, and shall thereafter be maintained as such.
22. Prior to commencement of the development hereby approved a Construction Environmental Management Plan (CEMP) including details and specifications for practical measures intended to protect and avoid or minimise adverse effects on biodiversity during the construction process shall be submitted to and approved in writing by the Local Planning Authority.

Preparation of the CEMP should follow the general guidance provided by the Chartered Institute of Ecology and Environmental Management. The appropriate content of such a report is set out in BS42020 clause 10.2.

The development shall be carried out in accordance with the approved CEMP.