



Appeal Decision

Site visit made on 6 June 2022

by J E Jolly BA (Hons) MA MSc MCIH MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th June 2022

Appeal Ref: APP/M2270/W/21/3277310

Land adjacent Frisco Cottage, Hawkhurst Road, Cranbrook, Kent TN17 3PU

- 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 N J Wickham against the decision of Tunbridge Wells Borough Council.
 - The application Ref 21/00602/FULL, dated 23 February 2021, was refused by notice dated 13 May 2021.
 - The development proposed is for the erection of 2 No detached two-bedroom dwellings with the provision of associated access, parking, amenity, landscaping and bio-diverse enhancements.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 2 No detached two-bedroom dwellings with the provision of associated access, parking, amenity, landscaping and bio-diverse enhancements on the land adjacent Frisco Cottage, Hawkhurst Road, Cranbrook, Kent TN17 3PU in accordance with the terms of the application, Ref 21/00602, dated 23 February 2021 and the plans submitted with it, subject to the conditions set out in Annex A.

Procedural Matters

2. The Government published a revised *National Planning Policy Framework* (the Framework) in July 2021. All references to the Framework in this decision relate to the updated document.
3. As the site address was not completed on the appellants' application form I have used the address given on the appellants' appeal form and the Council's Decision Notice. In the absence of a submitted postcode on either the appellants' application form or appeal form he has subsequently confirmed that the postcode for the appeal site subject to this appeal is TN17 3PU. I have proceeded accordingly.

Main Issues

4. The main issues in this case are:
 - the effect of the proposal on the character and appearance of the area including the High Weald Area of Outstanding Natural Beauty (AONB) and the setting of the surrounding listed buildings, and;
 - whether the proposal would be in a suitable location.

Reasons

a) Character and appearance

5. Frisco Cottage is located in the AONB approximately 2km from the settlement of Cranbrook. The appeal site is found at the end of an unmade track that leads from Bishops Lane via Hartley Road (A229). The track provides access to the Grade II listed buildings of Hill Cottage and Frisco Cottage as well as Hartley House which form a residential cluster as part of a number of converted agricultural-type buildings. There are also Grade II listed buildings at Hartley Gate Farm and at Bull Farm to the north.
6. The appeal site is a sloping, tree and hedge-lined paddock that has views to the wider AONB to the west. In this specific location the AONB is typified by spacious undulating open fields, pastures, wooded ridges and hills with a sprinkling of loose-knit development.
7. Glimpses of the residential dwellings that face on Hawkhurst Road (A229) can be seen to the eastern boundary of the appeal site, while the southern boundary is traced by a service road that runs past the dwellings known as Dukes Cottages and towards an industrial/business type area.
8. The proposal is to construct two single-storey dwellings that would have a useable roof-space with rooflights, parking and landscaping. The dwelling would be built in traditional-type materials that would include black timber weather-boarding and clay roof tiles. The site would use the existing access from Bishops Lane and have a pedestrian access onto Hartley Road.
9. The Council has brought to my attention a scheme in support of their case¹. However, I have limited details of that scheme before me. Therefore, I have considered the proposal on its' own planning merits. As such, the development would be in the AONB and for planning purposes located in the countryside. For that reason, the development should conserve and enhance the landscape and scenic beauty of the AONB as required by Paragraph 176 of the Framework, to which I attach great weight. Moreover, the development must comply with the relevant Tunbridge Wells Borough Council development plan policies to be permitted.
10. The Council contend that the proposal would result in a suburbanisation of the site. However, I find to the contrary. I noticed at my site visit that some of the surrounding buildings have been constructed with traditional-style materials and detailing, such as timber elevations and hipped clay roofs with low-key fenestration. For example, the outbuildings associated with Frisco Cottage and Hartley Oast. Hence, even if the proposal could be glimpsed from the A229, the materials of the modest rural-style proposal would be 'Kentish' in appearance and blend with the immediate built-form.
11. What is more, the proposed development would be buffered by new trees, hedges, an 'ecology zone' and other planting to the western site boundary. As such, the proposed small-scale development, that would be similar in appearance to other 'Kentish' type buildings seen in the surrounding countryside, would be shielded and softened in the long views from the adjacent fields of the AONB. Therefore, in my view the proposal would accord with the character and appearance of the area, including the AONB.

¹ 19/02170/OUT/ and APP/M2270/W/20/3247977

b) Listed buildings

12. The setting of a listed building contributes to its significance. Therefore, I have had special regard to Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest, which is supported by the national *Planning Policy Guidance* (PPG) which says that a thorough assessment of the impact on setting needs to take into account, and be proportionate to, the significance of the heritage asset under consideration and the degree to which proposed changes enhance or detract from that significance and the ability to appreciate it.
13. The significance of the 16th Century Hill Cottages is drawn from its origins as a former hall house that has now been divided into two cottages, one of which is Frisco Cottage. Both dwellings have high architectural interest that includes timber-frames on a red-brick plinth with weatherboards, and steep plain tiled roofs. These features are important elements of the significance of the dwellings which are likely to have had high status in the past as an agricultural small-holding in this predominantly rural-type location.
14. Similarly, Hartley House is a former farm-house of historic significance with an architectural style that represents evolving construction and material preferences over time, which I noted includes timber-frames, weatherboard cladding, tile hanging and irregular fenestration. In addition, when combined with other nearby buildings such as Hartley Gate Farm, Bull Farm and Hartley Oast, the historic layout of the rural farmstead adds to the historic significance of the listed buildings adjacent to the appeal site.
15. I acknowledge that the Council contend that the proposal would result in less than substantial harm to the significance of the listed buildings above, albeit at the lower end of harm. However, a heritage asset's setting is not fixed and may change as the asset and its surroundings evolve. Indeed, I noticed at my site visit that there is other development nearby such as; 'sand-schools', the newer dwellings lining the A229 and an industrial site. Moreover, whether the ability to appreciate the significance of the listed buildings from the appeal site is reduced as a consequence of the topography and landscaping or not, the limited scale, traditional materials and agricultural style of the simple 'Kentish' style proposal would not only be subservient to the listed buildings on the sloping site, but also be unassuming in appearance within the setting of the surrounding listed buildings.
16. Furthermore, I am persuaded by the appellants' submitted Landscape and Visual Appraisal and Heritage Statement which make it clear that the overall layout would successfully extend the historic farmstead footprint. My opinion is reinforced by the fact that the proposed dwellings would be positioned at right-angles to the north and west, and would therefore be reflective of the existing dispersed farmstead pattern of the immediate area and the scattered development nearby.
17. Therefore, in my view the harm to the significance of the historic assets as a consequence of the modest proposal would be neutral. I conclude therefore, that the proposed development would preserve the significance and special interest of the surrounding listed buildings.

Suitable location

18. The main parties agree that there is an established store and some services nearby which are known as the Hartley Gate farm-shop. There are also bus links near to the appeal site to the settlements of Maidstone and Sandhurst via Hawkhurst and Cranbrook where other services can be found, including a school and train station.
19. However, given the proximity of the well-used A229 highway and the limited pedestrian crossings and footways in the vicinity of the appeal site, I am in no doubt that the occupiers of the new dwellings, in a similar way to other residents along and near to Bishops Lane, would be likely to choose to travel by a private motor vehicle to reach these day to day services on most occasions.
20. Nonetheless, any increase in reliance on private motor vehicles is not likely to be substantial given the limits of the proposal. Indeed, this harm would be outweighed by the social, economic and environmental benefits associated with the scheme. For example; the employment opportunities associated with the construction and provision of two new family homes towards the Council's Housing Land Supply, the patronage of local businesses by the new occupiers and the range of ecological and biodiversity enhancements for the proposed scheme. I conclude therefore, that the proposal would be in a suitable location.
21. Accordingly, when considered as a whole, I conclude that the proposal would meet the aims of Policies LBD1, EN1 and EN25 of the Tunbridge Wells Borough Local Plan 2006, Core Policies 4 and 14 of the Tunbridge Wells Borough Core Strategy 2010, the aims and objectives of the Borough Landscape Character Area Assessment 2017, and the Framework when read as a whole.

Other Matters

22. Concerns were raised by an interested party about the access to the appeal site. However, while noted, private rights of access have no bearing on the consideration of planning applications.
23. I acknowledge that the proposal would introduce additional vehicle movements along Bishops Lane that might be of concern to users of the public bridleway. However, given that the scheme is for two residential dwellings, vehicle movements would be likely to be very low-level. Therefore, I have found no justification to dismiss the appeal or the social, economic and environmental benefits associated with the scheme.

Conditions

24. I have considered the Council's suggested conditions against Paragraph 55 of the Framework and the national PPG. For certainty, there is a standard time limit condition and conditions related to drawings and materials for the proposal. I have also imposed conditions in the interest of the character and appearance of the area, these include conditions for parking and turning, and a condition for a boundary treatment.

25. As there is a potentially contaminated site nearby, for human health there is a condition related to contamination and its remediation. For similar reasons, there is a condition related to foul drainage.
26. To preserve and enhance biodiversity on the site there are conditions related to biodiversity, trees and landscaping. In addition, as the appeal site might include Medieval activity, there is an archaeological condition to enable the recording of items of interest.
27. To encourage sustainable forms of transport there are conditions that will ensure a pedestrian access to the site is formed and that an electric vehicle charging point will be installed.
28. I have removed the condition related to site 'levels' as it does not meet the requirement for 'precision' as set out in Paragraph 55 of the Framework. Nonetheless, I am satisfied the approved plans, which are subject to a condition, will adequately cover this matter.

Conclusions

29. For the reasons given above the appeal should succeed and planning permission be granted, subject to the conditions set out in Annex A.

J E JOLLY

INSPECTOR

Annex A – Conditions:

- (1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
- (2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - DHA/14279/B01 (Site location plan)
 - DHA/14279/B02 (Existing site layout plan)
 - DHA/14279/B11 (Proposed site layout plan)
 - DHA/14279/B12 (Plot 1 & 2 proposed plans)
 - DHA/14279/B13 (Plot 1 proposed elevations)
 - DHA/14279/B14 (Plot 2 proposed elevations)
 - DHA/14279/B15 (Proposed site sections)
- (3) No development shall take place until samples of all external and internal facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- (4) No development shall take place until a Written Scheme of Investigation shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an assessment of archaeological significance and research questions - and if indicated by the Desk Top Study submitted with the application
 - (a) the programme and methodology of site investigation and recording;
 - (b) the programme for post investigation assessment;
 - (c) the provision to be made for analysis of the site investigation and recording;
 - (d) the provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - (e) the provision to be made for archive deposition of the analysis and records of the site investigation;
 - (f) the nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.
- (5) The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow that person to observe the excavations and record items of interest and finds.

- (6) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the Local Planning Authority.
- (7) The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.
- (8) Prior to development commencing, a scheme for the mitigation and enhancement of biodiversity on the site shall have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall take account of any protected species that have been identified on the site, shall follow the recommendations of the Biodiversity Metric Report (Corylus, 18/02/21), GCN Report (Corylus, 22/07/20) and the Preliminary Ecological Appraisal (Corylus, 22/07/20). In addition it shall have regard to the enhancement of biodiversity generally. It shall be implemented in accordance with the approved proposals within it and shall be carried out in perpetuity unless otherwise agreed in writing by the Local Planning Authority.
- (9) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- (10) The approved development shall be carried out in such a manner as to avoid damage to the existing trees, including their root systems, and other planting to be retained by observing the following:
- (a) All trees to be preserved shall be marked on site and protected during any operation on site by temporary fencing in accordance with the current edition of BS 5837, and in accordance with the approved Tree Protection Plan and the approved Arboricultural Method Statement. Such tree protection measures shall remain throughout the period of construction.
 - (b) No fires shall be lit within the spread of branches or upwind of the trees and other vegetation.
 - (c) No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation.
 - (d) No roots over 50mm diameter shall be cut, and no buildings, roads or other engineering operations shall be constructed or carried out within the spread of the branches or Root Protection Areas of the trees and other vegetation.
 - (e) Ground levels within the spread of the branches or Root Protection Areas (whichever the greater) of the trees and other vegetation shall not be raised or lowered in relation to the existing ground level, except as may be otherwise agreed in writing by the Local Planning Authority.
 - (f) No trenches for underground services shall be commenced within the Root Protection Areas of trees which are identified as being retained in the approved plans, or within 5m of hedgerows shown to be retained without the prior written consent of the Local Planning Authority. Such trenching as might be approved shall be carried out to National Joint Utilities Group recommendations.
- (11) Any existing trees or hedges retained on site which, within a period of five years from the first occupation of a property, commencement of use or adoption of land, die or become, in the opinion of the local planning authority, so seriously damaged or diseased that their long term amenity value has been adversely affected, shall be replaced in the same location during the next planting season (October to February), with plants of an appropriate species and size to mitigate the impact of the loss as agreed in writing by the Local Planning Authority.

- (12) The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme. The scheme shall include replacement tree planting alongside the road. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. Aside from any planting within the area identified as 'Ecology Zone' within drawing DHA/14279/B11 (which shall be retained in perpetuity as per condition 9), any trees or other plants 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 (October to February) with others of a similar size and species unless the Local Planning Authority give prior written permission to any variation.
- (13) Prior to first occupation of the development hereby approved, details of boundary treatment shall be submitted to and approved in writing by the local planning authority. The works shall be carried out and retained in accordance with the approved plans.
- (14) Prior to the first occupation of either dwelling, the pedestrian access on the south-eastern boundary of the site and the pathway connecting it to the development (as shown on approved drawing DHA/14279/B11) shall be provided and thereafter retained).
- (15) The development hereby approved shall not be occupied unless and until each of the proposed dwellings are provided with a fast charge socket for vehicles in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The charging provision shall thereafter be permanently retained as such.
- (16) The area shown on the approved plans as vehicle parking, access and turning space and garaging shall be paved and drained in accordance with details submitted to and approved in writing by the Local Planning Authority before first occupation of the development. No permanent development, whether or not permitted by Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and re-enacting those Orders), shall be carried out on that area of land or in such a position as to preclude its use.
- (17) None of the dwellings hereby permitted shall be occupied until the sewage disposal works shall have been completed in accordance with the submitted and approved plans.

*****End of Conditions*****