



Appeal Decision

Site visit made on 5 July 2022

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 September 2022

Appeal Ref: APP/E3715/W/22/3295435

130 Ashlawn Road, Rugby CV22 5EP

- 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 Geraghty of Geraghty Group against the decision of Rugby Borough Council.
 - The application Ref R21/0872, dated 15 July 2021, was refused by notice dated 10 February 2022.
 - The development proposed is 3 no. new build dwellings with detached garages and associated car parking and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for 3 no. new build dwellings with detached garages and associated car parking and landscaping at 130 Ashlawn Road, Rugby CV22 5EP in accordance with the terms of the application, Ref R21/0872, dated 15 July 2021, subject to the conditions in the attached schedule.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - highway safety.

Reasons

Character and Appearance

3. Houses on Ashlawn Road are detached and of varying heights though predominantly two storey. Houses are set behind mature front gardens and driveways, to a broadly consistent building line. A grass verge and wide pavement separates the houses from the road. This creates a pleasant sense of spaciousness. There is considerable variation in house design and materials along the road. This includes various colours of brick, render, cladding and roof tiles, and differing roof forms. The position of garages relative to the main house also varies. This variation in design is a positive defining feature of the character of the road.
4. Houses on nearby roads such as Heath Way, Balcombe Road and Shuckburgh Crescent are more consistent in design. These are predominantly two storey, semi-detached houses, with hipped roofs or side facing gables. Houses face on to the road behind modest front drives. This creates a higher density feel in comparison to Ashlawn Road. In the area around the appeal site, road layout is

broadly a grid pattern. Consequently, where there are gaps between houses, there are frequently glimpses of houses positioned on roads to the rear.

5. The appeal houses would front on to the proposed access road, which in turn would be perpendicular to Ashlawn Road and parallel to Heath Way. Consequently, whilst set back from the building line on Ashlawn Road, the proposed layout would be similar to the grid pattern of development in the surrounding area. Whilst each house would be a reasonably substantial four bedroomed detached property, the position of the appeal scheme would limit its perceived scale in the street scene. Furthermore, as a result of the relatively flat topography of the area and set back from surrounding roads, the appeal scheme would not appear unduly prominent or out of scale relative to surrounding houses.
6. To the extent that the proposal would be visible between existing houses, there would be a pleasing consistency of design amongst the three proposed houses. Moreover, the proposed conventional house design with hipped roofs, front projecting gables and detached garages would not appear out of place in relation to the traditional house design on surrounding roads or the more varied design on Ashlawn Road.
7. A reasonable degree of separation would be maintained between the proposed houses and existing neighbouring properties. For example a distance in excess of 27 metres is shown between the rear elevation of proposed house 3 and the existing rear elevation of houses on Shuckburgh Crescent. As such, visibility of the proposed houses from houses and gardens on surrounding roads, including Shuckburgh Crescent and Heath Way, would not feel oppressive. The proposed detached garages, whilst positioned closer to existing properties than the proposed dwellings, would be single storey. With neat, hipped roofs, absence of windows, and intervening boundary vegetation these would not appear intrusive or overbearing from surrounding houses and gardens.
8. The proposal would occupy parts of three existing gardens. However given the existing size of these, the development would be achieved without unacceptably compromising the private garden space of those houses. Furthermore, sufficient set back would be achieved to avoid activities in the proposed houses and gardens, and associated vehicular movements, leading to unacceptable noise or disturbance to existing occupants of neighbouring properties. Moreover, noise from such activities would likely be of a character typical of this suburban residential environment. Any noise and disturbance during construction, whilst potentially disruptive during that time, would be for a temporary period only. A condition to manage noise during construction would be reasonable, which I address below.
9. Accordingly, the proposal would not harm the character and appearance of the surrounding area. It would therefore accord with Policy SDC1 of the Rugby Borough Council Local Plan 2011-2031 (June 2019) (Local Plan) which seeks to ensure proposals are of an appropriate design that responds to the character of the area. I also find no conflict with those principles of the National Planning Policy Framework (Framework) that seek good design, sympathetic to the prevailing character of the local area. Given the lack of harm to the area's prevailing character and setting from development of these residential gardens, I also find no conflict with paragraph 124.d) of the Framework.

Highway Safety

10. Vehicular access to existing houses on Ashlawn Road is via driveways which are perpendicular to the road. Therefore vehicles will commonly be entering and exiting driveways similar to the proposed site access. The presence of the grass verge would afford visibility of the pavement and road to drivers exiting the site, before crossing the pavement. In addition, the topography of the road is such that there is good visibility in both directions. I note also that the accident history for this road is low. A bin collection point would be provided at the front of the site thus avoiding the need for refuse vehicles to enter and turn within the site.
11. The access is proposed to be widened to ensure compliance with relevant standards in line with the Highways Authority's recommendation, which I address in the conditions section below. Although the number of vehicles entering and exiting the site would increase, the scale of the increase for three additional dwellings would be relatively limited. Therefore I am satisfied that a safe access would be achieved. No robust evidence is before me to indicate otherwise, even taking into account other traffic generating housing developments being built in the locality. I note the Highways Authority reached a similar conclusion.
12. Accordingly, I conclude that the proposal would be acceptable with respect to highway safety. Consequently, it would comply with Policy D1 of the Local Plan and paragraph 110 of the Framework. Amongst other matters, these require that proposals provide a safe and suitable access.

Other Matters

13. Although not a previously developed site, the proposal is located in a sustainable settlement where development is supported in principle where it contributes positively to the area. It would therefore be in accordance with Policy GP2 of the Local Plan which sets out the settlement hierarchy and does not prohibit development of garden land. It would also accord with paragraph 69 of the Framework which requires great weight to be given to the benefits of using suitable windfall sites within existing settlements for homes.
14. Whilst the proposal would not deliver one or two bed properties or homes specifically designed to cater for the elderly, it nonetheless represents a small contribution to the Government's overall objective of boosting housing supply. Therefore whether or not the Council can demonstrate a five year supply of housing, this weighs in favour of the development. The construction of the dwelling would provide short term benefits to the local and wider economy; and the occupants would be likely to stimulate consumer spending, boost local labour supply and help to support local services, which would all constitute benefits in social and economic terms.
15. Due to the intervening distances and orientation of the proposed dwellings with respect to existing habitable room windows on nearby houses, privacy in existing houses would not be unacceptably compromised. A condition requiring submission of details of finished ground floor levels would ensure that the proposal achieves an acceptable relationship with reference to surrounding developments. A condition requiring final landscaping details to be agreed prior to implementation could reasonably be imposed to ensure a suitably high quality, sensitively designed scheme without unacceptable loss of daylight or

sunlight in surrounding properties or their gardens. No strong evidence is before me to indicate otherwise.

16. I have found the proposal would not harm the character and appearance of the area. For similar reasons, and given the distance between the proposed dwellings and existing houses and gardens, it would not give rise to unacceptable impacts with respect to outlook. Given that lack of harm, it would not create a precedent for other developments that would cause harmful effects in those regards. Nor do I consider it would be to the detriment of development planning for the wider area. In any event, each proposal is to be considered on its own merits and/or impacts, and the particular circumstances involved.
17. No robust evidence is before me to indicate that there would be inadequate utilities for the development, or that the appearance of utilities connections such as for electricity or telephones would be detrimental to the local area. With respect to foul and surface water drainage, the standard condition requiring submission of details for approval is imposed to ensure this is adequately addressed. Land ownership is a private matter between the parties involved.
18. With respect to the submitted planning obligation relating to biodiversity off-setting, paragraph 57 of the Framework sets out three tests that planning obligations must meet. Firstly, they must be necessary to make the development acceptable in planning terms, secondly, they must be directly related to the development, and thirdly, they must be fairly and reasonably related in scale and kind to the development.
19. I accept that some garden trees may have been removed prior to the biodiversity impact assessment having originally been carried out. However I am not aware of any restrictions that might have prevented their lawful removal given their location within existing gardens. In any event I can only proceed on the evidence before me.
20. The proposed development represents a relatively modest reduction in biodiversity through the replacement of areas of domestic garden with new homes and associated infrastructure. The submitted planning obligation would secure mitigation for the anticipated biodiversity loss. Where this could not be secured on site, this would comprise off-site mitigation and/or payment of an offsetting contribution to the County Council to fund long-term conservation projects in the area. Therefore I am satisfied that the obligation is necessary to make the proposed development acceptable in planning terms.
21. The scale of the offsetting scheme or contribution would be directly related to an assessment of the biodiversity impact of the development. As such, the obligation is directly related to the appeal scheme and is fairly and reasonably related to the proposal in scale and kind. For the above reasons, the planning obligation would meet the requirements of the Framework. I therefore attach weight to the obligation in the determination of this appeal.
22. It has not been robustly demonstrated that the proposal could not reasonably be located on an alternative site where the biodiversity impact would be less. In addition the off-setting scheme is not submitted as one that would necessarily achieve biodiversity net gain. Consequently it has not been demonstrated that the proposal would fully accord with the provisions of Policy

NE1 of the Local Plan relating to impacts on habitats or species of local importance. Similarly, compliance with the intention in the Framework for biodiversity net gain to be achieved has not been demonstrated.

23. However, despite a degree of conflict with Policy NE1 and the Framework, the scale of the biodiversity loss of domestic garden habitat is relatively limited. In addition, proportionate compensatory measures are proposed. Accordingly, in the circumstances of this case, the benefits of housing delivery on this sustainable windfall site outweigh the small degree of policy conflict with respect to biodiversity. Therefore, in addition to its compliance with the Local Plan settlement hierarchy (Policy GP2), I find no conflict with Policy GP1 of the Local Plan as a whole, which supports developments that improve economic, social and environmental conditions in the area. Furthermore, I conclude that the proposal accords with the development plan and the Framework when read as a whole.
24. I have had regard to a range of other comments on the proposal, including in respect of the financing of the scheme, engagement with neighbours, housing tenure, crime and antisocial behaviour. I have given careful consideration to these matters, some of which the Council has not raised any objections to, but they do not lead me to a different overall conclusion on the main issues, nor do they amount to harm which would justify withholding planning permission.

Conditions

25. I have imposed conditions in line with those suggested by the Council with small modifications in some instances as set out below. In addition to the standard time limit condition I have imposed a condition specifying the approved plans in the interests of certainty.
26. I have combined two suggested conditions relating to construction method. The condition requires a construction method statement to be provided. This is to address the need for pre-commencement checks for wildlife, to ensure the construction phase makes suitable provision for protection of wildlife. It also addresses measures to control the construction process to minimise disruption to nearby residents. Given the modest scale of the proposal I have made the requirements of this proportionate. The appellant has confirmed their agreement to this condition. A condition specifying hours of construction is also imposed to minimise disruption to nearby residents.
27. A condition requiring approval of a final landscaping scheme is required in the interests of biodiversity and achieving good design. Given the scale and nature of the development it would not be reasonable to require maintenance of landscaping and trees in domestic gardens for the lifetime of those properties. As reasoned above, a condition requiring approval of details of finished ground floor levels is necessary to ensure they would be acceptable with respect to surrounding developments. The appellant has confirmed their agreement to this condition.
28. Conditions requiring approval of materials to be used in the construction of external surfaces, and relating to the proposed bin store, are imposed in the interests of protecting the character and appearance of the surrounding area. Similarly, a condition requiring approval of details of any external lighting is imposed to ensure a suitable high quality design is achieved.

29. Given the site's location within an Air Quality Management Area it is necessary to impose a condition relating to air quality mitigation measures. To ensure drainage from the site is suitably managed I have imposed a condition using standard wording requiring submission of foul and surface water drainage details. I have combined conditions relating to provision of the widened site access and its drainage. This condition has been agreed with the appellant and the Council.
30. A condition requiring compliance with optional standard 36 (2)(b) of Building Regulations 2010 relating to measures to limit water use is imposed in the interests of water efficiency. In the interests of privacy for existing and future occupants, a condition is imposed requiring that windows on side elevations are obscure glazed.
31. I do not consider there to be sufficient justification for restricting wholesale permitted development rights, including with respect to means of enclosure in front of the proposed dwellings. The Planning Practice Guidance advises that such restrictions should only be imposed in exceptional circumstances. However, to preserve a uniform appearance of the development and maintain acceptable living conditions for neighbouring occupants with respect to privacy, it is necessary to remove permitted development rights for the enlargement, improvement or alteration of the dwellings and for the enlargement by addition or alterations to their roofs. A condition is also imposed to prevent installation of additional windows or dormer windows in the interests of privacy of surrounding occupants.

Conclusion

32. For the above reasons, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions below.

Rachel Hall

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: 3917-LP; 3917-02 Rev B; 3917-03; 3917-04; 3917-05; 3917-06; 3917-07; 3917-08; 3917-09; 760.1 Rev 2.
- 3) No development shall commence, including site clearance, preparatory work and demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall include:
 - details of pre-commencement checks for bats, breeding birds, amphibians and badger, and appropriate working practices and safeguards for wildlife during construction;
 - measures to control noise and vibration from construction activities;
 - measures to control dust during construction;
 - measures to reduce mud deposition offsite from vehicles during construction.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 4) Notwithstanding condition 2, 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 a native species planting plan, details of any habitat creation, and species-specific enhancements such as hedgehog highways, and provision of bird and bat boxes. Such species-specific enhancements shall be implemented prior to first occupation of the dwellings hereby permitted. The scheme shall also include indications of all existing trees on the land, identify those to be retained and set out measures for their protection throughout the course of development. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; 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.
- 5) Demolition or construction works shall take place only between 0730 – 1800 on Mondays to Fridays, and 0830 – 1300 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floors of the proposed buildings, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.

- 7) No above ground development shall commence until full details of the colour, finish and texture of the materials to be used in the construction of the external surfaces of the development hereby permitted, including samples of the facing bricks and roof tiles, have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and samples.
- 8) No above ground development shall commence until a scheme detailing the on-site measures to be incorporated within the development in order to meet air quality neutral standards or to provide suitable mitigation, has been submitted to and approved in writing by the local planning authority. Thereafter, the approved measures and/or mitigation shall be implemented as part of the approved development and maintained for the lifetime of the development.
- 9) No development shall take place, excluding site clearance, preparatory work and demolition, until details have been submitted to and approved in writing by the local planning authority of the foul and surface water drainage for the site, and the foul and surface water drainage shall then be installed in accordance with the approved details prior to first occupation.
- 10) No development above slab floor level shall take place until there shall have been submitted to and approved in writing by the local planning authority details of the location and design of the proposed bin storage areas. Such storage areas shall be completed in accordance with the approved details before first occupation of any dwelling and shall thereafter be retained for those purposes for the lifetime of the development.
- 11) Prior to the installation of any external lighting, details of type, design and location of such lighting shall be submitted to and approved in writing by the local planning authority. Such lighting shall be carried out in accordance with the approved details.
- 12) The dwellings hereby permitted shall not be occupied until the Building Regulations optional requirement (water efficiency in new dwellings) in regulation 36(2)(b) to the Building Regulations 2010 (as amended), has been complied with.
- 13) The dwellings hereby permitted shall not be occupied until the windows on the side elevations of each dwelling have been fitted with obscured glazing and once installed the obscured glazing shall be retained thereafter.
- 14) The development hereby permitted shall not be occupied until vehicular access to the site has been increased to not less than 5 metres in width, and a public highway footway crossing installed at the site entrance, in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Such details shall include information to confirm how the widening of the access will avoid reducing the effective capacity of any drain or ditch within the limits of the public highway.

- 15) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development shall be carried out which comes within Classes A - C of Schedule 2 Part 1 of the Order without express planning permission having first been granted by the local planning authority.
- 16) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the dwellings hereby permitted.