



Appeal Decision

Site visit made on 20 June 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 August 2023

Appeal Ref: APP/P1940/W/23/3315063

Dell Cottage, Dog Kennel Lane, Chorleywood WD3 5EL

- 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 and Mrs Simons against the decision of Three Rivers District Council.
 - The application Ref 22/0555/FUL, dated 23 March 2022, was refused by notice dated 17 August 2022.
 - The development proposed is the subdivision of plot and construction of a new dwelling and associated works and construction of detached garage and driveway to serve existing dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the subdivision of plot and construction of a new dwelling and associated works and construction of detached garage and driveway to serve existing dwelling at Dell Cottage, Dog Kennel Lane, Chorleywood, WD3 5EL in accordance with the terms of the application, Ref 22/0555/FUL, dated 11 April 2022, subject to the attached schedule of conditions.

Preliminary Matters and Main Issue

2. During the appeal, the appellant submitted a signed Unilateral Undertaking (UU), pursuant to Section 106 of the Town and Country Planning Act 1990, dated 16 May 2023, which would provide a financial contribution for affordable housing. Following a review of the UU, the Council have confirmed that these provisions are acceptable, and it is no longer contesting this reason for refusal.
3. Consequently, the main issue is the effect of the proposed development on the character and appearance of the area, with particular regard to the Chorleywood Common Conservation Area (CCCA).

Reasons

4. As the appeal site is located within the CCCA I am required by Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) to pay special attention to the desirability of preserving or enhancing the character and appearance of that area. The significance of the CCCA is derived from the open nature of the Common surrounded by the variety of built forms and architectural styles which demonstrates how the area has grown over many centuries. The Chorleywood Common Conservation Area Appraisal (the CCCA Appraisal) also sets out how the scale of the Common combined with the sporadic layout of the built form located on its fringes ensures buildings remain subservient to it, maintaining the open and rural character of the CCCA.

5. The appeal site is positioned on gently rising land from Dog Kennel Lane which traverses the adjacent Common. When viewed from the Common close to Dog Kennel Lane, this topography results in the properties of Constables Cottage, Dell Cottage and Cava House being prominent terraced features set against a verdant backdrop of trees and small wooded areas.
6. The proposed dwelling would be set into the topography of the land and no higher than Dell Cottage. This, combined with its front and rear building lines being set back from those of Dell Cottage, would result in the proposed dwelling being largely screened from view from the Common. Although the proposed dwelling would be located within a gap which is otherwise absent of built form it would not be readily apparent or overly prominent from public vantage points. Instead, given its scale and siting relative to the nearby built form, the proposed development would sit discretely and comfortably within its plot behind Dell Cottage and be experienced as part of the sporadic, terraced layout of the built form on the fringe of the Common.
7. Despite the contemporary style of the proposed dwelling, with contrasting architectural features to those present on nearby buildings, its siting would ensure the prominence of Constables Cottage, Dell Cottage and Cava House is retained. Overall, it would maintain the subservience of built form to the Common and retain the open and rural character whilst enhancing the variety of architectural styles, thereby preserving the significance of the CCCA.
8. I conclude that the proposed development would not harm the character and appearance of the area, with particular regard to the CCCA. It would accord with policies CP1 and CP12 of the Core Strategy¹ and Policy DM3 of the DMP². These policies, amongst other aspects, seek to protect built and historical environments by permitting development in Conservation Areas only where it preserves the character of the area and achieves a high standard of design.
9. It would also comply with policies 1, 2 and 3 of the Neighbourhood Plan³ which require development in Conservation Areas to maintain local distinctiveness whilst only permitting backland development where specific criteria are met. Finally, it would accord with the overarching aims of Chapter 16 of the National Planning Policy Framework (the Framework) to conserve or enhance the historic environment.

Other Matters

10. In relation to affordable housing, Policy CP4 of the Core Strategy requires that contributions to affordable housing will be sought for all new housing development with the use of commuted payments towards off site provision considered for small sites. The submitted UU obligates the appellant to pay an agreed sum to the Council prior to the commencement of development on the site. In accordance with paragraph 57 of the Framework, I have considered the UU against the three tests set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010. I am satisfied that the provisions are necessary to make the appeal scheme acceptable in planning terms and are fairly and reasonably related in scale to the proposed development, thereby meeting the three tests identified above.

¹ Local Development Framework Core Strategy

² Development Management Policies Local Development Document

³ Chorleywood Neighbourhood Development Plan 2020-2035

11. I have been made aware that Constables Cottage, located close to the site, is a listed building. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Area) Act 1990, I have paid special regard to the desirability of preserving the setting of this designated heritage asset. Although adjacent to the appeal site, high hedges and substantial trees are located along the site boundary with Constables Cottage. Furthermore, the new dwelling would be positioned a significant distance from the listed building such that any visual relationship would be limited. Consequently, the proposed development would not harm the setting of this listed building.
12. My attention has been drawn to a previous planning application⁴ for a dwelling on the appeal site which was refused for similar reasons to the appeal scheme. However, based on the evidence before me, the appeal scheme has been amended to address the reasons for refusal and further evolved during the application determination period.
13. I am mindful that, given the appeal site benefits from planning permission for a garage⁵ to serve Dell Cottage, there is a theoretical possibility that both permissions could be implemented at the same time. However, the proximity of the building footprints of the two schemes is such that, should both garages be built, this would compromise the functionality of the appeal garage and driveway. Therefore, the implementation of both schemes is unlikely.
14. Concerns have been made by interested parties regarding the removal of existing vegetation on the site. Some of the trees on the appeal site are included in a Tree Preservation Order⁶ and the CCCA provides a level of protection to existing planting. Consequently, combined with a requirement to provide further protection measures via a condition imposed on the grant of planning permission, the existing vegetation would be suitably preserved. Similarly, a condition requiring a landscaping scheme to be approved by the Council will ensure the environment is not 'covered in concrete' and any increase in stormwater runoff is minimised.
15. Further interested party representations have been made relating to concerns about the potential disturbance from the construction of the proposed development and the proximity of the existing driveway to a neighbouring property. Whilst frustrating, given the scale of the appeal scheme, any disturbance would be short-term.
16. The private road which provides access to the site from Dog Kennel Lane is narrow. However, I have limited substantive information before me to conclude that the proposed development would unacceptably prejudice the safety of users of the road. Furthermore, any increase in traffic as a result of the proposed development would be small given the scale of the appeal scheme. The fact that Dell Cottage has already been extended or the recently approved dwellings in the surrounding area are not matters for me to consider as part of this appeal.
17. Whilst concerns have been raised regarding existing wildlife on the site, I have no substantive evidence before me to conclude that the proposed development would be unacceptable in this respect.

⁴ Council ref: 21/1387/FUL, dated 23 August 2021

⁵ Council ref: 19/1269/FUL, dated 30 August 2019

⁶ TPO ref: TPO174, dated 19 July 1982

Conditions

18. I have considered the Council's suggested conditions in light of advice contained within the Framework and the National Planning Practice Guidance (PPG). I have undertaken some minor editing, rationalisation and reordering, in the interests of precision and clarity. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, for the avoidance of doubt and the interests of the character and appearance of the Conservation Area and the amenity of neighbouring occupiers. This condition complies with policies CP1, CP9, CP10 and CP12 of the Core Strategy, policies DM1, DM3, DM4, DM6, DM10 and DM13 of the DMP and policies 1 and 2 of the Neighbourhood Plan.
19. I have imposed a condition to safeguard the existing trees on and close to the site during construction, in accordance with policies CP1 and CP12 of the Core Strategy and Policy DM6 of the DMP. To ensure the external building accords with policies CP1 and CP12 of the Core Strategy and policies DM1, DM3 and Appendix 2 of the DMP, it is necessary to impose a condition requiring the proposed external materials to be approved by the Council.
20. To ensure a satisfactory visual impact on the living conditions of neighbouring occupiers, I have also imposed a condition relating to hard and soft landscape works. This complies with CP1 and CP12 of the Core Strategy and policies DM1 and DM6 of the DMP. There is no need for me to impose a separate condition relating to boundary treatments as these can be agreed upon as part of the hard and soft landscape works.
21. To safeguard the living conditions of existing and future occupiers, in accordance with policies CP1 and CP12 of the Core Strategy and Policy DM1 and Appendix 2 of the DMP, I have imposed a condition requiring the installation of obscured glazing and privacy fins. Finally, I have imposed a condition requiring energy efficiency and water consumption standards to be met, in accordance with Policy CP11 of LPP1 and Chapter 14 of the Framework. The submission of these details to the Council is necessary prior to the occupation of the development, not before works start on site.
22. The Council has suggested that a condition is imposed removing permitted development rights on the site. Paragraph 54 of the Framework states that planning conditions should not be used to restrict permitted development rights unless there is a clear justification to do so. Furthermore, the PPG advises that such conditions may not be reasonable or necessary. Based on the evidence before me, I see no reason to conclude that harm would result from permitted development rights, aside from the protection afforded by the Conservation Area, being implemented on the appeal site. Therefore, I do not consider that this condition is necessary to make the development acceptable in planning terms.
23. Due to the scale of the development, the imposition of a construction management plan, as suggested by Chorleywood Parish Council, is not necessary. Similarly, based on the scale of the appeal site and the evidence before me, including the completed Local Biodiversity Checklist, it has not been justified that, in the absence of further biodiversity provisions, the development would be unacceptable without a condition requiring further information to be provided.

Conclusion

24. For the reasons given above, and taking into account all other relevant matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

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:
 - SBK-833-PL02 – Location Plan as Existing and Site Plan as Proposed
 - SBK-833-PL10 – Plans as Proposed
 - SBK-833-PL11 – Roof Plan Waste Store & New Garage (for existing plot) as Proposed
 - SBK-833-PL20 rev A – Elevations as Proposed
- 3) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and the appropriate working methods 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 and in accordance with any timetable therein. [In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.]
- 4) No development above ground level shall commence until samples and details of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out strictly in accordance with the approved sample details unless otherwise agreed in writing with the local planning authority.
- 5) No development above ground level shall commence until a scheme of hard and soft landscape works, including boundary treatments, is submitted to and approved in writing by the local planning authority. The development shall be carried out prior to the occupation of the dwelling in accordance with the approved details and maintained thereafter.

All planting, seeding or turfing comprising the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings, or the completion of the development, whichever is sooner. Any planting found damaged, dead or dying within a period of 5 years following planting or seeding shall be replaced in the next planting season with others of a similar size and species unless otherwise agreed by the local planning authority.
- 6) Prior to the occupation of the dwelling, the first-floor windows to the western elevation shall be fitted with obscured glazing with a top-level opening only 1.7m above the floor level of the room to which the window serves. The privacy fins shall also be installed prior to the occupation of the dwelling. The obscured glazing and privacy fins shall be retained and maintained thereafter.

- 7) Prior to the occupation of the dwelling, the development hereby permitted shall be implemented in accordance with the details within the Sustainable Energy Statement prepared by Dynamic Energy Assessors, dated 4 March 2022 and maintained thereafter. Prior to the installation of any photovoltaics, details shall be submitted to and approved in writing by the local planning authority, implemented and maintained thereafter.

End of Schedule