



Appeal Decision

Site visit made on 22 January 2024

by Robin Buchanan BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 January 2024

Appeal Ref: APP/E2205/W/23/3324634

Glenoaks, Pound Lane, Smeeth, Ashford TN26 2BB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Vincent Mingay against Ashford Borough Council.
 - The application Ref PA/2023/0254, is dated 6 February 2023.
 - The development proposed is erection of single garage.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single garage at Glenoaks Pound Lane, Smeeth, Ashford TN26 2BB in accordance with the terms of the application, Ref PA/2023/0254, dated 6 February 2023, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The Council did not determine the application within the statutory time limit. I have had regard to the objection that would have been its reason for refusal, as set out in its appeal statement. The appellant was able to consider this in final comments which I have taken into account in determining the appeal.
3. The Council appears not to have initially received a copy of the appellant's appeal statement but thereafter did not make any comments on it.
4. In final comments the appellant requested a refund of the planning application fee. This was, in essence, because the appellant believes the Council did not carry out a site visit or anyway make a decision within the statutory period. Costs cannot be claimed relating to the Council's consideration of an application, only in relation to unreasonable behaviour resulting in unnecessary or wasted expense in the appeal. There is, therefore, no justified costs application to be determined. Whether the appellant is entitled to a fee refund would be a matter for him to pursue with the Council.

Main Issue

5. The main issue in this appeal is the effect of the garage on the character and appearance of the site and the area.

Reasons

6. The site contains a detached chalet bungalow (Glenoaks) with mainly side gardens, located on the edge of the village. It is a corner plot on one side of a junction, with the narrow end of Glenoaks side on to Plain Road and

- countryside opposite. In Pound Lane it faces a chalet bungalow on the opposing corner (Fiddlers Green). Part of the site would be developed with a detached garage suitable in size for a single car.
7. The rows of mostly bungalows and chalet bungalows on the approach to this junction in each of these roads have a regimented building line. They are set back behind mainly low front boundary hedgerow or fences and landscaped gardens. At Glenoaks and Fiddlers Green the gardens wrap around the junction. Apart from some outbuildings in the a distinctly separate fenced part of the garden of Glenoaks (which at this side splays closer to Pound Lane) and an attached double garage at Fiddlers Green (which is well back from Plain Road but close to the edge of Pound Lane) there are no outbuildings between dwellings and these two roads. This gives a mainly open aspect and spacious landscaped rural feel to this low key built form that is locally distinctive.
 8. One end of the garage would be closer to Plain Road than the side of Glenoaks. However, it would be a small protrusion and still respect the prevailing general building line in this road. Most of this part of the garden would remain as an open setting to Glenoaks and maintain spaciousness along this road corridor. As such, the garage would not appear unduly cramped or over develop this part of the site. All of the garage would be forward of Glenoaks, off to one side, closer to Pound Lane but occupy a similar position in proximity to this road as the garage at Fiddlers Green. Despite the difference in siting relative to Plain Road, there would be little difference between these two outbuildings in this respect in Pound Lane. This would give a balanced relationship between these outbuildings either side and at this junction end of Pound Lane.
 9. The garage would not be very wide or long, with a simple low-pitched gabled roof and moderate eave and ridge heights. The modest building volume and overall extent of built form would be subservient to Glenoaks. This part of the garden is significantly lower relative to Plain Road and especially Pound Lane. As a result, most of the garage would be screened behind the existing close boarded boundary fence that encloses the garden around this corner of the junction (approximately 1.8m or 2m high above raised roadside verge level). This fence reduces to about 1.2m further into and long Pound Lane but by then, and from this direction, mainly only the upper front part of the garage would be glimpsed.
 10. The lawfulness of the fence is subject to a planning enforcement investigation by the Council. I have not been informed about any outcome. However, even if the tall fence was removed or reduced to the same or similar height as the lower fence (or some or all of the existing fence replaced by a new fence to this effect), established trees, shrubs and hedgerow in the garden along this roadside boundary would remain conspicuous features in public views. This planting would also have a significant screening effect, so the garage would still nestle largely unobtrusively in the sunken garden. The appellant had already agreed to the Council's request for additional planting along this boundary if necessary, so this eventuality could be secured by a planning condition. A suitable fence or planting would also maintain privacy for the appellant's living conditions.
 11. While external materials are specified in the application form and plans, some are options, are innately more temporary in nature or would not be in keeping with Glenoaks. A condition could avoid this ambiguity and ensure the garage

was constructed using suitable high quality external materials, including colours and for fenestration, to give a muted, recessive not jarring, detracting presence. There is no evidence the same circumstances as at the site and in relation to Fiddlers Green or the countryside exist elsewhere in Plain Road or Pound Lane. There is therefore little real prospect of an undesirable precedent being set if planning permission were granted. I have determined the appeal on its individual planning merits.

12. Taking account of all the above, I find that despite being towards the apex of this corner plot and one side of the junction, the garage would not unduly disrupt a building line or be visually over dominant or result in unnecessary predominance in the streetscene. It would therefore be compatible with, and be assimilated into, the character and appearance of the site and the area. Consequently, it complies with Policies SP1, SP6 and ENV3a of the Ashford Local Plan February 2019. These policies include that development should promote a positive sense of place through design of built form, relationship between buildings and spaces, respond to the prevailing character of the area and have regard to settlement pattern and roads. As such, it also does not offend the Council's relevant supplementary planning guidance¹.

Conditions

13. The appellant has not objected to the conditions suggested by the Council if the appeal was allowed. Where required, I have considered modified wording of the Council's conditions in the interests of clarity or precision and had regard to the relevant tests in the National Planning Policy Framework (the Framework) and Planning Practice Guidance. In addition to conditions already referred to above, and the standard time limit condition for commencing development, a condition to specify the approved plans would ensure certainty about what would be built. A condition would be necessary to ensure the garage was used for a purpose incidental to residential occupation of Glenoaks because separate dwellinghouse use would not be appropriate in the garden of this site.

Planning Balance and Conclusion

14. Subject to conditions the proposal complies with the development plan overall. There are no other material considerations, including relevant provisions of the Framework, to indicate that the decision should be taken other than in accordance with the development plan². Consequently, for the reasons given above the appeal succeeds.

Robin Buchanan

INSPECTOR

Schedule of Conditions (5)

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

¹ Domestic Garages and Outbuildings in Urban and Rural Areas (SPG Note 9), June 2004

² Section 38(6) Planning and Compulsory Purchase Act 2004 (as amended) and Framework paragraph 12

- 2) The development shall be carried out in accordance with the following approved plans³:

Site location plan	22 February 2023
Proposed plans/elevations	8 February 2023
Site layout plan	9 May 2023

- 3) Notwithstanding condition 2) or what is stated in the application form, prior to the construction of any external elevation or roof covering of the garage hereby permitted, a written schedule of the details of all external materials, including fenestration, shall be submitted to and approved in writing by the local planning authority. The schedule shall include details of the manufacturer, colour and finish with samples if requested. The development shall be carried out in accordance with the approved details.
- 4) In carrying out development for the garage hereby permitted, in the event that some or all the existing boundary fence next to and near the position of the garage is removed and is not to be replaced by a new fence, or it is reduced in height or replaced by a lower fence, and notwithstanding condition 2), a scheme of landscaping shall be submitted to and approved in writing by the local planning authority. All planting comprised in the approved details of landscaping shall be carried out in the first planting or seeding season following permanent removal or alteration of the existing fence or erection of a new fence. Any approved 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) The garage hereby permitted shall not be used for primary residential accommodation at any time and shall only be used for purposes incidental to the enjoyment of the dwellinghouse on the site, currently known as Glenoaks

³ The dates listed refer to date of receipt given by the Council