



Appeal Decision

Site visit made on 10 July 2024

by **C McDonagh BA (Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 2 September 2024

Appeal Ref: APP/A1910/W/23/3327060

Frithsden Vineyard, Frithsden Lane, Frithsden, Hertfordshire HP1 3DD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Duncan Thomson against the decision of Dacorum Borough Council.
 - The application Ref is 22/02538/FUL.
 - The development proposed is 'Replacement Dwelling'.
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Decision

1. The appeal is allowed, and planning permission is granted for a Replacement Dwelling at Frithsden Vineyard, Frithsden HP1 3DD in accordance with the terms of the application, Ref 22/02538/FUL, subject to the conditions in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Duncan Thomson against Dacorum Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. On 30 July 2024, the Government published a consultation draft of proposed reforms to the National Planning Policy Framework (the Framework). However, the proposed changes do not relate to the main issue of this appeal and are in any event at an early stage. As such, I have not sought the views of the main parties in coming to my decision.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area, with particular regard to the setting of the Frithsden Conservation Area (FCA).

Reasons

5. The appeal site includes a detached dwelling and outbuilding set within a large plot which has previously operated as a vineyard. The dwelling is of facing red brick construction with a catslide roof and is of two-storey height to the rear and single to the front. However, due to the topography of the site, which rises to the north, the property appears as single storey when viewed from the rear. Much of the wider site is covered by grassland and growing areas of the vineyard, while there is mature tree cover to each boundary and an existing parking area to the front of the dwelling which is accessed off Roman Road.

6. Frithsden is a small but dispersed settlement, although there is a convergence of built form around a central triangular green area around which is located a public house and several dwellings. This forms the centre of the FCA with a section along the road to the west. Much of the positive elements of the character and appearance of the FCA are derived from the focal point of the green and the seclusion which is experienced from the lower valley location and surrounding areas of woodland. The narrow through roads of the settlement add to the rural character, while built form is predominantly single and two-storey detached properties which sit in generous plots. Older buildings of the FCA are of timber frame construction with later render, while red brick is evident on later buildings.
7. Most of the appeal site is not located within the FCA, although a section at the entrance from Roman Road is. Given the situation, I see no reason to disagree that the proposal would be located within the setting of the FCA. While section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) does not impose a duty to consider the setting of a conservation area in planning functions, paragraph 205 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset (including conservation areas), great weight should be given to the asset's conservation. Significance can be harmed by development within its setting. The Framework defines setting as the surroundings in which the asset is experienced. Elements of setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance, or may be neutral. Given the surrounding rural context of the FCA, its setting makes a positive contribution to its significance as a designated heritage asset.
8. The proposal seeks to demolish and replace the existing property, which was evidently built in the 1980's. Although a pleasant and somewhat unassuming structure, the removal of the existing property would not be harmful in and of itself. The proposed dwelling is a rough 'U' shape formed by projecting oak-framed gables and large expanses of glazing to the front and rear, with the ground floor section of the front including a smaller spread of fenestration and the attached garage to one side. The facing elevations are composed of weatherboarding with red brick sections and a tiled roof. The property would sit in the same position as the existing building, while being built in a similar manner whereby it would be two storeys to the front and single storey to the rear, achieved by building into the rising topography of the land. It would have a larger footprint and would be higher by approximately one metre. Other elements include a balcony to the front elevation and a terrace to one side.
9. I understand that the planning application was recommended for approval by the Council planning officer, although this was refused by the planning committee. While some of the existing properties in Frithsden are 'low-profile', I also observed two-storey dwellings of similar height. Some are brick facing, although others are timber framed and as such, I find no harm with the proposed material palette.
10. In any event, the appeal property is distinctly separate from the main built form of the settlement due to distance and dense boundary screening. As such, the appeal property is not read in conjunction with other properties as closely. An increased spread of glazing may be a departure from the set style of smaller openings seen elsewhere but there is little explanation as to why this is

harmful, particularly given the existing building's later origins. Due to the specific characteristics of the appeal site I see no reason why the increased height, area and materials are harmful. Moreover, while the boundary screening may fade in winter when trees are not in leaf, I have concluded that the design would not be harmful regardless. As such, it follows that this increased permeability of the site in winter months would also not be harmful. Additional planting is proposed to be secured by condition and while this is not intended to hide the property, it will further aid in the integration of the new dwelling in its location.

11. Furthermore, as the design is acceptable and there would be no harm to the character and appearance of the area, it follows that there would be no harm to the setting of the FCA and the significance of the designated heritage asset would be preserved.
12. Taken together, the proposal would not harm the character or appearance of the area or the FCA. This would accord with policies CS12 and CS27 of the Dacorum Borough Council Core Strategy 2006 – 2031 (adopted 25 September 2013). These seek, among other things, to ensure that the integrity, setting and distinctiveness of designated and undesignated heritage assets will be protected, conserved and if appropriate enhanced. The proposal would also accord with paragraph 205 of the Framework, which advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Other Matters

13. I have had regard to the comments of interested parties. Most of these relate to the main issue and have been addressed. The appeal site is located within the Chilterns Area of Outstanding Natural Beauty (AONB). However, impact upon the AONB was not given as a reason for refusal in the decision notice by the Council, nor were matters of highway safety. Based on all that I have seen and read, I see no reason to disagree.
14. There are concerns raised by interested parties regarding increased views into a property to the south and noise from users of the terrace. Again, this did not form a reason for refusal, and from reading the committee meeting minutes it did not appear to have been discussed at that time either. If it was, I have not been made aware. While it is referenced in the Council's statement of case, there is nothing before me to indicate that there are sufficient concerns so as to elevate this to a main issue.
15. Additionally, the site lies within the Grade II* Registered Park and Garden (RPG) of the Ashridge Estate. There is no statutory duty concerning the consideration of development in an RPG. However, I am cognisant of the relevant provisions in the Framework in this regard. No harm to the significance of the RPG, arising from the proposed development, is identified by the Council. From the evidence before me, I have no reason to disagree.
16. There are other concerns regarding the size of the curtilage around the dwelling resulting from the proposal. However, the Council clarified in their recommendation report that the area proposed to act as curtilage is clearly defined on the location plan. This does not have to be etched in red. Moreover,

the curtilage of a building is an area of land related to that building, not the use of land itself. As such I have not considered this matter further.

17. There are other concerns that the proposal may be part of a piecemeal approach to the redevelopment of the wider site to include a commercial venture and/or tree houses. I have not been made aware of any details of these matters and for the avoidance of doubt I have considered the proposal as it was presented to me, as a replacement dwelling.

Conditions

18. The Council has suggested a number of conditions in the light of the appeal being allowed. The appellant has not objected to most of the suggested conditions and has agreed to those pre-commencement stipulations where relevant. I have, however, altered the wording and order of conditions where necessary to better reflect the advice set out in the Planning Practice Guidance concerning the use of planning conditions, without changing their overall intention. The time limit and approved plans and documents list are standard conditions, although clarity was sought as to the plans assessed as those given in the approved plans condition were different from the decision notice. The Council has since clarified the plans.
19. Further conditions to agree specific details of facing materials, including sample panels of the flint work, hard and soft landscaping and tree protection measures are necessary to ensure the development will integrate sensitively into the location. I have therefore excluded these survey documents from the list of approved plans and documents as additional information is required. To reduce unnecessary conditions, I have included adherence to mitigation and enhancement measures in the preliminary ecological assessment in the approved plans and documents list, which the Council has also referenced.
20. A condition to ensure gates at the vehicular access point open inwards is necessary to ensure highway safety is maintained, although I see no reason for this to be a pre-commencement condition so have altered the wording accordingly.
21. The Council has also suggested a condition to remove permitted development rights under classes A, AA, B, C and E of Schedule 2, Part 1 and Class A of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. The reason given for this is to ensure the Council retains control over the development in the interests of residential and visual amenity.
22. However, as the PPG¹ advises, conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. Moreover, the Framework advises in paragraph 54 that, similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.
23. There is nothing before to indicate why this is necessary and as the appellant points out, given the site is located on Article 2(3) land, there are already restrictions in place relative to these permitted development rights. Moreover, the Council did not refuse the proposal based on any impacts to the AONB or

¹ Planning Practice Guidance: Paragraph: 017 Reference ID: 21a-017-20190723

living conditions of nearby residents in the first place, and as such to my mind this would not pass the test of being reasonable or necessary.

Conclusion

24. For the above reasons, having taken account of the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be allowed subject to the conditions in the attached schedule.

C McDonagh

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following drawings and documents:

Drawings

Location Plan, Drawing No. P1, Rev A; Plans of replacement House, Drawing No. P27 Rev C; Elevations of replacement House (1), Drawing No. P28 Rev C; Elevations of replacement House (2), Drawing No. P29 Rev C; Proposed Site Plan House (replacement), Drawing No. P30 Rev A; Proposed Block Plan House (replacement), Drawing No. P31 Rev A.

Documents

Preliminary Ecological Appraisal and Preliminary Roost Assessment Survey by Arbtech dated 8 July 2020.

Bat Emergence and Re-entrance Surveys by Arbtech dated 10 September 2020.

- 3) 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) has 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.
- 4) No development shall commence until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority.
- 5) No development above ground level shall take place until of the materials 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 development shall be carried out in accordance with the approved details.
- 6) No development above ground level shall take place until sample panels of the sections of new facing brick and flintwork have been provided on site and approved in writing by the local planning authority. The approved sample panels shall be retained on site until the work is completed and the development shall be carried out in accordance with the approved sample panels.
- 7) Any access gates shall be installed to open inwards, set back, and thereafter retained (in perpetuity) at a minimum distance of 6 metres from the edge of the highway.

END OF SCHEDULE