



Appeal Decision

Site visit made on 4 August 2020

by **P Wookey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 24th September 2020

Appeal Ref: W/4001011

Pinnock Yard, The Pinnock, Pluckley, Ashford, TN27 0SS

- 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 Portfolio Homes against Ashford Borough Council.
 - The application Ref 19/01411/AS, is dated 29 September 2019.
 - The development proposed is described as 'Erection of 4 x dwelling houses, car barns and associated landscaping'.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 4 x dwelling houses, car barns and associated landscaping at Pinnock Yard, The Pinnock, Pluckley, Ashford, TN27 0SS, in accordance with the terms of the application Ref 19/01411/AS, dated 29 September 2019, subject to the conditions in the attached schedule.

Procedural Matter

2. The appellant submitted revised drawings No (P)110 and (P)003 with regards the extent of land ownership. On the basis that all parties have had the opportunity to comment on those revised plans and no party is at a disadvantage, I have based my decision on the revised drawings.

Main Issue

3. The main issue is whether the development proposed would meet the requirements of policies relating to housing provision for the area.

Reasons

4. The appeal site is a triangular plot adjoining the hamlet of Pluckley Thorne, which was previously in commercial use, but has been vacant for some time. The boundary with Smarden Bell Road is well defined by established trees and mature landscaping around its boundaries. Access to the site would be from Smarden Bell Road. A row of dwellings, Thorne Cottages, are located adjacent to the site, but are some distance away.
5. The development proposed would construct two pairs of 3-bedroom dwellings with designated car barns and associated landscaping, set around a central courtyard. The proposed accommodation has been set over three floors.

6. Policy H1 of the Pluckley Neighbourhood Plan (2017) (PNP) refers to the site as Site A and states that it is allocated for approximately four dwellings with the supporting text stating that it could accommodate four affordable two/three bedroom homes with the potential for young people, in response to the residents expressed wishes. Further it states that it is small scale, utilises an existing access onto the highway, does not impact on views and would improve the appearance of an untidy site. Policy H1 of the NHP does not make reference to the need for it to be an entry level site as defined in Paragraph 71 of the National Planning Policy Framework (2019) (the Framework) or a rural housing exception site as set out in Paragraph 77 of the Framework.
7. The Council states that the development proposed would not fulfil the requirements of Policy H1 of the PNP and refers to a scheme for the site which has an extant planning permission¹ for a more modest terrace of 2x2 bed and 2x3 bed houses, which it says would be within reach of first time buyers. However no evidence has been submitted with regards the previous scheme or whether there would be a suitable mechanism in place to provide for first time buyers or market evidence to demonstrate that this is required, even though it is expressed as a wish of local residents.
8. The Council has concerns that the development proposed which would include a multipurpose room in the roofspace could have the potential to be used as an additional bedroom and potential purchasers would view the dwellings as a four bedroom house, which would be contrary to Policy H1 of the PNP. Though I note that the Council acknowledges that the scheme with the extant planning permission, could have at a later stage, loft conversions to create an additional room.
9. The appellant has indicated that following pre-application discussions with the Council, modifications to the design of the dwellings were made to remove dormers to the rear elevations which would limit the future use of the roofspace as an additional bedroom. Further, the appellant states that the multipurpose space to the second floor within the loft area would provide for modern family living and would be used as study or playroom. There is no indication in the evidence before me, that it is intended that the loft space be used as an additional bedroom given the modifications that took place to the design of the space in the loft area.
10. Moreover, I am satisfied that the development proposed would not provide the amount or type of housing, which is proposed in Policy H1 in the PNP, or its supporting text. Further, whilst the Council has concerns regards the roofspace, this is no different to what could be achieved on the scheme with extant planning permission.
11. I conclude that the development proposed would comply with Policy H1 of the PNP and the policies SP1 and SP2 of the Ashford Local Plan to 2030 and the Framework, which when read together in this case seeks to ensure new affordable residential development, of the appropriate number and size takes place on a brownfield site.

¹ Planning reference 17/00837/AS

Other Matters

12. I have had regard to the concerns of the Parish Council and other interested parties in relation to the roof height of the proposed dwellings. Based on my site visit, the roof heights of dwellings in the surrounding area vary and the proposed dwellings which would have a traditional Kentish appearance would not appear to be incongruous in comparison.
13. Concerns have also been raised with regards trees on the site and I have regard to the professionally produced Arboricultural report². The appellant states that the proposed layout would safeguard protected trees to the boundary with Smarden Bell Road and I am satisfied that protection of Tree Preservation Order No 9,2017, a copy of which has been submitted as evidence, could be controlled by the imposition of an appropriate condition.
14. Interested parties have raised concerns with regards overlooking and loss of privacy. However, the nearest dwellings at Thorne Cottages are some distance away and as a result of the separation distance and orientation of the proposed dwellings there would be no significant harm due to overlooking, such that it would result in a loss of privacy of the occupiers of Thorne Cottages.
15. Interested parties have also raised concerns regarding parking arrangements, which I note have not been raised as concerns by the Council. I am satisfied that each dwelling would provide parking provision which would be compliant with Policy TR3a of the LP.
16. Further, interested parties have raised concerns regards drainage, which can be controlled by a condition requiring full details of surface water drainage and also the loss of use of an allotment, however I have no evidence before me which would indicate that the site has previously been in use for allotment purposes. Whilst I have had regard to all of the concerns raised, they have not altered my decision.

Conditions

17. The Council has proposed a number of conditions which I have assessed against the advice given in the Planning Practice Guidance (PPG).
18. The Council proposed the removal of permitted development rights under Schedule 2, Part 1, Classes A-E of the Town and Country Planning (General Permitted Development) Order 2015, however in this case it is not reasonable or necessary and the PPG advises that conditions restricting the future exercise of PD rights and conditions restricting future changes of use may not pass the test of reasonableness or necessity. I have therefore omitted this proposed condition.
19. Condition 1 is the statutory time limit and complies with the requirements of Section 91 of the Town and Country Planning Act (as amended). Condition 2 is in the interests of certainty and Condition 3, 4 and 5 are in the interests of visual amenity.
20. Condition 6 is in order to reduce the impact of the development on flooding and to manage water run off flow rates, protect water quality and improve

² Chartwell Tree Consultants Arboricultural Report at Pinnock Yard, The Pinnock, Pluckley, Kent TN27 0SS dated 12 September 2019

biodiversity. Condition 7 is to protect and enhance the amenity of the site and the surrounding area.

21. Condition 8 and 9 are to ensure the provision of adequate parking, loading and turning facilities in the interests of highways safety and the convenience of other road users.
22. Condition 10 and 11 are to protect and improve wildlife habitats on the site. Condition 12 is to protect from light pollution as a result of the development.
23. Condition 13 is to ensure that risks of land contamination are minimised to future users of the land, adjacent land and development can take place without unacceptable risks to workers, neighbours and off-site receptors.

Conclusions

24. For the reasons set out above the appeal is allowed.

Paul Wookey

INSPECTOR

Schedule of Conditions:

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.
2. The development shall be carried out in accordance with the plans listed: 2018-500(P)003A; 2018-500(P)110; 2018-500(P)100A; 2018-500(P)101A.
3. Written details including source/ manufacturer, and samples of bricks, tiles and cladding materials to be used externally shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced above slab level and the development shall be carried out using the approved external materials.
4. A landscaping scheme for the site (which may include entirely new planting, retention of existing planting or a combination of both) shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced above slab level. Thereafter, the approved landscaping/tree planting scheme shall be carried out fully within 12 months of the completion of the development. 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 with others of a similar size and species unless the Local Planning Authority give prior written consent to any variation.
5. No development shall take place above slab level until these have been submitted to and approved in writing by the Local Planning Authority, a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details and shall be permanently maintained.
6. The drainage works shall be designed in accordance with the principles of sustainable urban drainage and carried out and maintained in accordance with these details.
7. 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 BS 5837:2012, (Trees in relation to design, demolition and construction - recommendations) and in accordance with the approved Arboricultural Appraisal Report, to the satisfaction of the Local Planning Authority. Such tree protection measures shall remain throughout the period of construction;
 - (b) No fires shall be lit within the spread of branches or downwind 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 25mm 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;

(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.

8. Prior to works commencing on site, details of parking for site personnel as well as details of loading and turning areas for construction traffic and wheel washing facilities shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be provided and retained throughout the development. The approved parking, loading and turning areas and wheel washing facilities shall be provided prior to the commencement of development.
9. The area shown on the approved drawings as vehicle parking space, visibility splays, cycle storage, garages and turning shall be provided before the premises are occupied, and shall be retained for the use of the occupiers of, and visitors to, the development, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order), shall be carried out on that area of land so shown or in such a position as to preclude vehicular access to this reserved parking space.
10. Prior to the commencement of development, a methodology statement shall be submitted to and approved in writing by the Local Planning Authority, for detailed surveys of wildlife habitats and population surveys of species. These shall be undertaken in advance of any site clearance. An appropriate mitigation strategy for each species, illustrating how the populations shall be maintained, enhanced or monitored and the approved measures shall be carried out in accordance with the agreed timetable.
11. Prior to development commencing, a scheme for the 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 any protected species that have been identified on the site, and in addition 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.

12. No external lighting shall be installed until details have been submitted to and approved in writing by the Local Planning Authority prior to the commencement of the development. This submission shall include a layout plan with beam orientation and a schedule of light equipment proposed. The approved scheme shall be installed, maintained and operated in accordance with the approved details.

13. If unexpected contamination is found at any time when carrying out the approved development, it must be reported in writing to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary a remediation scheme must be prepared. Following completion of the remediation scheme a verification report that demonstrates the effectiveness of the remediation carried out must be prepared and submitted for approval in writing by the Local Planning Authority.