



Appeal Decision

Site visit made on 15 February 2018

by **David Reed BSc DipTP DMS MRTPI**

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 March 2018

Appeal Ref: APP/E2205/W/17/3184349

Land west of Shrubcote, Appledore Road, Tenterden, Kent TN30 6RH

- 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 R Jarvis, Jarvis Land (SE) Ltd against the decision of Ashford Borough Council.
 - The application Ref 16/01090/AS, dated 14 July 2016, was refused by notice dated 28 July 2017.
 - The development proposed is the erection of four detached dwellings with associated landscaping, provision of new accesses onto Shrubcote Road and Appledore Road with private parking, provision of a sustainable drainage system and other ancillary works.
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Decision

1. The appeal is allowed and permission is granted for the erection of four detached dwellings with associated landscaping, provision of new accesses onto Shrubcote Road and Appledore Road with private parking, provision of a sustainable drainage system and other ancillary works at Land west of Shrubcote, Appledore Road, Tenterden, Kent TN30 6RH, in accordance with the terms of the application, Ref 16/01090/AS, dated 14 July 2016, subject to the attached schedule of conditions.

Main Issue

2. The main issue is the effect of the proposal on the character and appearance of the area, including the effect on the Tenterden Conservation Area (CA) and the setting of Hales Place and associated listed buildings.

Reasons

Character and appearance

3. The proposal is for four detached houses with adjacent garages, each set in a large plot, on the corner of Appledore Road and Shrubcote Road on a small part of the extensive grounds of Hales Place in Tenterden. A substantial part of these grounds comprises amenity grassland with ornamental and native deciduous and coniferous trees planted about 20 years ago. The L-shaped appeal site forms a small section of this tree planted area at its eastern end, furthest from Hales Place itself. At present there is no physical boundary dividing the appeal site from the rest of the grounds.
4. Although there is housing opposite the site on both Appledore Road and Shrubcote Road the grounds of Hales Place form a large undeveloped enclave within Tenterden. In the Council's view the site falls outside the built up

confines of the town where Policy TRS2 of the Tenterden and Rural Sites DPD 2010 restricts development to certain limited categories, none of which apply in this case. However, the site lies immediately adjacent to the built up area and from each direction is approached through the town. In addition, the Council cannot currently demonstrate a five year supply of deliverable housing sites so policies for the supply of housing are out of date.

5. Approaching the centre of Tenterden through the built up area along Appledore Road, the appeal site comprises an undeveloped frontage on one side of the road from Shrubcote Road to the corner of East Hill. With a low hedge along the frontage and view of the trees within the site, this forms a pleasant verdant break within the town. However, the proposal would introduce an unusual, low density form of development with only four houses widely placed within the trees, many of which would be retained. Only one access would be created through the hedge on Appledore Road to serve two properties and one on Shrubcote Road to serve the other two, leaving most of the hedge in place. The houses would therefore sit within a verdant, well treed setting which, whilst developed, would remain a distinctive break in the otherwise densely built up approach to the town.
6. The four houses would be individual traditional designs, of two storeys with bay and dormer windows and other features such as chimneys and porches to add interest and articulate each building. Arranged informally in large plots amongst numerous trees, using local vernacular materials such as red bricks, tiled roofs, tile hanging, weatherboarding and timber windows, the result would be an attractive group of buildings that would not be out of place.
7. The grounds of Hales Place form part of the Tenterden CA, but the L-shaped appeal site lies on the far eastern periphery of the designated area. The focus of the large CA is the historic High Street lined with numerous listed buildings which lies well to the west. The new houses would be remote from this area, visually separated by the trees within the grounds of Hales Place, and would relate instead to the modern housing on the south eastern side of the town which is suburban in character. As a result the special architectural and historic interest of the CA, which lies elsewhere, would not be affected by the proposal and its character and appearance would be preserved.
8. Hales Place itself is an important 16th century house listed Grade II* with a group of associated Grade II listed buildings including an Oast House, aisled barn and two turrets marking the corners of a walled garden. Whilst on slightly higher ground to the south west, these listed buildings lie well away from the appeal site, about 200 m in the case of Hales Place and about 166 m in the case of the aisled barn. The extensive tree cover in this wide gap would all but completely screen the new houses from the listed buildings and this would preserve their setting. Hales Place was originally set within agricultural land but modern housing has been kept at bay by the retained grounds. Since the proposal would not encroach significantly into the remaining grounds the appreciation and understanding of Hales Place and its associated buildings would not be adversely affected.
9. For these reasons the proposal would not significantly harm the character and appearance of the area; it would also preserve the character and appearance of the Tenterden Conservation Area and preserve the setting of Hales Place and its associated listed buildings.

Other matters

10. The site comprises a former orchard but has been replanted relatively recently by native and ornamental trees closely spaced at about 4-5 m intervals. The site is dominated by this semi-mature planting but the trees have not been thinned or proactively managed. As a result the better quality trees, together with a group of mature trees near the pond, can be retained within the low density layout. With the houses set back into the site, further tree planting can be provided within the private garden areas to ensure the existing tree covered nature of the site is largely retained.
11. The ecological report submitted with the application confirms that most of the site comprises common habitat types and that the mature trees, standing water and most of the species rich hedge would be retained. No protected species would be adversely affected. With precautionary mitigation measures together with biodiversity enhancements such as new planting there are no overriding objections to the proposal in relation to ecology.
12. With only four houses proposed the traffic generated by the scheme would be modest, sufficient car parking/turning would be provided and the necessary visibility splays can be achieved to ensure highway safety. Any increase in noise, disturbance or pollution from car movements would be marginal. No objections have been received from the emergency services.
13. There is no evidence that local services and facilities would be unable to cope with the small increase in population. A suitable drainage strategy has been submitted. The houses would be far enough away from each other and those across the road to avoid any undue loss of privacy. Any relevant legal covenants are a private matter. Housing allocations elsewhere in the town do not preclude development on other suitable sites, and any future applications on adjacent land would be determined on their own merits. Finally, some noise and disturbance during construction would be inevitable but this would only be for a temporary period and could be controlled by limiting working hours and a Construction and Transport Management Plan.

Conditions

14. The Council put forward a set of conditions should the appeal be allowed and these have been assessed against the relevant tests, making some minor amendments as necessary. In addition to the standard implementation time limit it is necessary to define the approved plans in the interests of certainty and to control the external materials and other design details (conditions 4-6) to ensure the satisfactory appearance of the development. Conditions 7-8 to control working hours/methods are necessary to protect the interests of nearby residents and highway safety and conditions 9-13 to ensure parking/turning space, suitable access and visibility splays are provided in the interests of highway safety. Further conditions (14-16) to control foul and surface water drainage are required to prevent flooding and pollution.
15. Conditions are necessary to ensure suitable boundary treatment is provided, to protect important trees and hedgerows during construction and to require a landscaping scheme and its maintenance (18-23), all to ensure the satisfactory appearance of the development. Single occupation of each dwelling (24) is necessary to ensure sufficient car parking and conditions to control future alterations, extensions, curtilage buildings and external lighting to protect the

design integrity of the houses and in view of the sensitive location. Finally, it is necessary to ensure the ecological interest of the site is protected during the construction period and ecological enhancements are carried out in the interests of biodiversity. One condition, requiring access to the site to ensure compliance with the planning permission is not imposed as there are already sufficient powers in this regard.

Conclusion

16. The proposal would provide an attractive low density scheme of four additional dwellings in a sustainable location which would make a small but useful contribution to housing land supply. The scheme would not significantly harm the character and appearance of the area nor adversely affect heritage assets.
17. The Council claim the proposal would conflict with Policies GP10, EN12, EN16 and EN32 of the Ashford Borough Local Plan 2000, Policy CS1 of the Ashford Core Strategy 2008 and Policy TRS2 of the Tenterden and Rural Sites DPD 2010. These seek to conserve the character of Tenterden by limiting new housing to allocated sites, redevelopment or minor development such as infillings within existing built up confines, to protect areas of private open space which provide visually important breaks in the town, to protect important trees and to protect the high quality built and natural environment generally. However, in this particular case the character of the proposed development and its mitigation are such that the policy objections are minimal. The adverse impacts of granting permission would be significantly outweighed by the benefits and the scheme should therefore go ahead.
18. Having regard to the above the appeal should be allowed.

David Reed

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - HP2016/21 Proposed Site Layout Plan for 4 Units
 - HP2016/30 Plot 1 Plan & Elevations Sheet 1
 - HP2016/31 Plot 1 Plan & Elevations Sheet 2
 - HP2016/32 Plot 2 Plan & Elevations Sheet 1
 - HP2016/33 Plot 2 Plan & Elevations Sheet 2
 - HP2016/34 Plot 3 Plan & Elevations Sheet 1
 - HP2016/35 Plot 3 Plan & Elevations Sheet 2
 - HP2016/36 Plot 4 Plan & Elevations Sheet 1
 - HP2016/37 Plot 4 Plan & Elevations Sheet 2
 - HP2016/38 Garage Details Sheet 1
 - HP2016/39 Garage Details Sheet 2
 - HP2016/20C Proposed Landscape Plan
 - HP2016/22 Proposed Site Layout with Tree Survey
- 3) No development above foundation level shall be carried out on the land until samples and written details including source/manufacturer of the materials to be used in the construction of the external surfaces of the development (including details and samples of any hardsurfacing) have been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out using the approved external materials.
- 4) Before any works above foundation level are carried out the following details shall be submitted to and approved in writing by the Local Planning Authority:
 - a) Details and location of rainwater goods;
 - b) Details of any flues, grilles and vents to be installed including location, dimensions, colour and material;
 - c) Details of electricity and gas meter boxes and any external pipe work including their location on the buildings;
 - d) Details and sections through eaves, porches/entrance canopies, chimneys, dormer windows and plinths; and
 - e) Details of all windows including recess depth of glazingThe works shall then be carried out strictly in accordance with the approved details.
- 5) The windows in all of the buildings hereby permitted shall be timber.
- 6) No flues, vents, stacks, extractor fans or meter boxes shall be located on the front elevation of any of the buildings hereby permitted.
- 7) No site clearance, preparation or construction works shall take place other than between 0730 to 1800 hours (Monday to Friday) and 0730 to 1300 hours (Saturday) with no working activities on Sundays, Public or Bank Holidays.
- 8) No development including any trees works or site clearance prior to building operations shall take place on site until a Construction and

Transport Management Plan has been submitted to and approved in writing by the Local Planning Authority. The said plan shall include the following:

- a) parking for site personnel, visitors and operatives;
- b) details of areas for the loading and unloading of plant and materials, and provision on-site for turning for construction vehicles;
- c) details of areas for the storage of plant and materials;
- d) Details of the form and location of any proposed temporary works compounds; and
- e) details of facilities by which vehicles will have their wheels, chassis and bodywork effectively cleaned and washed free of mud and similar substances.

The approved Construction and Transport Management Plan shall be strictly adhered to throughout the duration of the construction period.

- 9) The vehicle parking spaces/garages and turning areas shall be provided in accordance with the details shown on approved drawings HP2016/21, HP2016/38 and HP2016/39 before any dwelling is first occupied, and shall thereafter be retained at all times for the use of the occupiers of, and visitors to, the development. 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 the area of land so shown or in such a position as to preclude vehicular access to the reserved parking, turning, bicycle and refuse facilities.
- 10) The first 5 metres of the accesses from the edge of the highway shall be surfaced in a bound material.
- 11) Before any dwelling is first occupied the accesses shall be completed in accordance with the details shown on approved drawing HP2016/21 and the accesses shall thereafter be retained and maintained at all times.
- 12) The access gradient shall be no steeper than 1 in 10 for the first 1.5 metres from the highway boundary and no steeper than 1 in 8 thereafter.
- 13) No dwelling shall be first occupied until the visibility splays shown on drawings 152048/A/09 Revision C and 152048/A/10 Revision B contained in the Transport Statement dated January 2017 have been provided at the accesses. The area within the visibility splays shall be permanently maintained thereafter with no obstructions over 0.9 metres in height above carriageway level.
- 14) No development shall take place until full details of the proposed means of foul water sewerage disposal have been submitted to and approved in writing by the Local Planning Authority. The approved works shall then be fully carried out before the first occupation of any of the dwellings hereby permitted and thereafter retained and maintained at all times.
- 15) No development shall take place until plans and particulars of a sustainable drainage system (including the details below) for the disposal of the surface water from the site has been submitted to and approved in writing by the Local Planning Authority. This should be based on the principles and details contained in "Flood Risk Assessment for the

proposed development at land West of Shrubcote, Appledore, Tenterden Kent” by Herrington Consulting July 2016.

- 16) The final drainage plan for the scheme will be approved by the Local Planning Authority to ensure that surface water runoff from the site is being dealt with appropriately and in line with Ashford Borough Council’s Sustainable Drainage SPD providing a site runoff rate of no greater than 2 l/s as required within the aforementioned document.
- The submitted system shall comprise retention, or storage, of the surface water on-site, or within the immediate area, in a way which is appropriate to the site’s location, topography, hydrogeology and hydrology. Surface water runoff should be dealt with within the application boundary via suitable methods approved by the Local Planning Authority.
- The submitted system shall be designed to (i) avoid any increase in flood risk, (ii) avoid any adverse impact on water quality, (iii) achieve a reduction in the run-off rate in accordance with the Ashford Borough Council Sustainable Drainage SPD document adopted October 2010, (iv) promote biodiversity, (v) enhance the landscape, (vi) improve public amenities, (vii) return the water to the natural drainage system as near to the source as possible and (viii) operate both during construction of the development and post-completion.
- The submitted details shall include identification of the proposed discharge points from the system, a timetable for provision of the system and arrangements for future maintenance (in particular the type and frequency of maintenance and responsibility for maintenance).
- The approved system shall be provided in accordance with the approved timetable. The approved system shall be maintained in accordance with the approved details and shall be retained in working order at all times until such time as the development ceases to be in use. A plan shall be provided indicating the routes flood waters would take should the site experience a rainfall event that exceeds the design capacity of the surface water drainage system, or in light of systems failure (designing for exceedance), including any appropriate mitigation measures.
- 17) No development above foundation level shall take place until a plan indicating the positions, design, materials and type of boundary treatment to be erected has been submitted to and approved in writing by the Local Planning Authority. The boundary treatment shall be completed prior to the first occupation of any dwelling on the site or in accordance with a timetable previously agreed in writing by the Local Planning Authority. The boundary treatment shall be provided in accordance with the approved details and shall thereafter be maintained at all times.
- 18) Removal of trees shall be undertaken in accordance with the approved plan HP2016/22 titled “Proposed Site Layout with Tree Survey” submitted on 6 July 2017. No other trees shall be removed and no pruning or other works shall be carried out unless details of the proposed works have been submitted to and approved in writing by the Local Planning Authority.
- 19) Before any works commence on site a survey of the development site as existing shall be submitted to the Local Planning Authority and shall include a numbered tree condition schedule with proposals for removal of trees and for surgery or other works (where applicable) to retained trees.

- 20) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (a) and (b) below shall have effect until the expiration of 5 years from the date of first occupation of the dwellings.
- a. No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be pruned, thinned or reduced other than in accordance with plans and particulars approved in accordance with condition 18 without the prior written approval of the Local Planning Authority.
 - b. If any tree is removed, uprooted, destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the Local Planning Authority.
 - c. All retained trees 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). Such tree protection measures shall remain throughout the period of construction.
 - d. No fires shall be lit within the spread of branches or downwind of the trees and other vegetation;
 - e. No materials or equipment shall be stored within the spread of the branches or Root Protection Area of the trees and other vegetation;
 - f. No roots over 50mm 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;
 - g. 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, except as may be otherwise agreed in writing by the Local Planning Authority.
 - h. 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.
- 21) All existing hedges or hedgerows shall be retained unless shown on the approved drawings as being removed. Any existing hedges and hedgerows on and immediately adjoining the site shall be protected from damage for the duration of works on the site. Any parts of hedges or hedgerows removed without prior consent or which die or become seriously diseased or otherwise damaged within five years following contractual practical completion of the approved development shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with plants of such size and species and in such positions as may be agreed with the Local Planning Authority.
- 22) 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 any development above foundation level takes place. Thereafter, the approved landscaping/tree planting scheme shall be fully carried out

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.

- 23) No dwelling shall be first occupied until a landscape management plan, including management responsibilities and maintenance schedules for all landscape areas, has been submitted to and approved in writing by the Local Planning Authority. The approved landscape management plan shall then be adhered to unless otherwise agreed in writing by the Local Planning Authority.
- 24) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) or any other Order or subsequent Order revoking or re-enacting that Order, the dwellings hereby permitted shall only be occupied as single dwelling houses as described by Use Class C3 of the Town and Country Planning Use Classes Order 1987 as amended.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, no development shall be carried out within Classes A-F of Part 1 and Classes A-B of Part 2 of Schedule 2 of that Order (or any Order revoking and re-enacting that Order), without the prior written approval of the Local Planning Authority.
- 26) No external lighting shall be installed on the site without the prior written approval of the Local Planning Authority.
- 27) Prior to any works commencing (including vegetation clearance) a GCN mitigation strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include:
Aims/objective of mitigation strategy
Review of ecological surveys to inform mitigation strategy
Details of current site conditions/management
Details of the proposed methodology to implement mitigation
Timetable of proposed works.
The development shall then be carried out in strict accordance with the approved strategy.
- 28) Prior to the first occupation of any dwelling hereby permitted an ecological enhancement plan detailing what enhancements will be incorporated in the site and how these will be managed shall be submitted to and approved in writing by the Local Planning Authority. The enhancements shall include native species planting and the SUDs area shall be designed to benefit biodiversity. The enhancements shall be provided in accordance with the approved details and maintained at all times thereafter.