
Appeal Decision

Site visit made on 11 October 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

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

Decision date: 1 November 2016

Appeal Ref: APP/C1950/W/16/3151697

Land rear and adjacent to No 17 Kingsmead, Cuffley, Potters Bar EN6 4AN

- 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 & Mrs Hewitt against the decision of Welwyn Hatfield Borough Council.
 - The application Ref 6/2016/0291/FUL, dated 22 February 2016, was refused by notice dated 26 May 2016.
 - The development proposed is erection of a detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a detached dwelling at land rear and adjacent to No 17 Kingsmead, Cuffley, Potters Bar EN6 4AN in accordance with the terms of the application, Ref 6/2016/0291/FUL, dated 22 February 2016, subject to the conditions in the attached schedule.

Main Issues

2. The main issues raised by this appeal are the effect the proposed development would have on the character and appearance of the area, including its effect on the landscaping scheme of an adjoining development, and on the living conditions of the occupiers of neighbouring properties, with particular reference to its visual effects.

Reasons

Character and appearance

3. At the time of my visit much of the appeal site was occupied by site cabins associated with the adjacent building site where four dwellings are under construction with the remaining part forming the end of the garden of 17 Kingsmead. With the exception of the house at No 17, Kingsmead is predominantly characterised by bungalows arranged along a cul-de-sac layout with more spacious gardens to the rear.
 4. Whilst not identical, the proposed house would be of a design, appearance and detailing which would be similar to that of the dwellings under construction and this degree of conformity would result in the building having a strong visual relationship with that group. Although two storey, other than a dormer and a stairwell, the first floor would be accommodated within the roof slope.
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5. The proposal would result in a new dwelling being located between those on Kingsmead and the group of four houses under construction, However its spatial relationship with these would not be so close to either groups that it would give rise to a cramped form of development or one which would appear overly intensive. The spaces which would remain between the proposed house and surrounding buildings, notwithstanding that much of that space would be outside the site, would not harmfully erode the spacious character which exists to the rear of existing buildings in the surrounding area.
6. Although part of the gable of the proposed house and a surrounding patio area would occupy that part of the site currently part of the garden of No 17, it would still largely retain the character and appearance of a garden, albeit one separated from No 17. The resulting design and built form would be one which would avoid any harmful contrast with the site's established and emerging character and context.

Landscaping

7. The proposed house and its associated hardstandings would occupy an area alongside the access road which would serve the appeal site and the four dwellings under construction, a space which could otherwise be landscaped. In support of their position the Council have provided Site Layout drawing (Ref 1374/3pl 01 A) which shows indicative tree planting and landscaping on part of the site. This plan shows an earlier access road configuration than that shown on the appeal scheme. The revised route would enable a slightly larger area of landscaping to be created in the vicinity of the appeal site (and a slightly smaller one on the opposite side of the access road) than that shown on the Site Layout drawing.
8. Other than this plan and the assertion that it was an important part of the consideration of the adjoining scheme I have been presented with little substantive evidence as to the role of the landscaping scheme in general, and its effect in this location in particular, played in determining the acceptability of the housing scheme under construction. Similarly, I have little information to indicate how this area and its landscape treatment formed an integral part of the overall design of the adjoining development. It has not been suggested that the adjoining scheme would be rendered unacceptable as a result of the loss of some of the landscaping area which would be set back from the street.
9. Based on that Site Layout drawing, sufficient areas would remain available for planting to enable the appeal site and adjacent new dwellings to be set within acceptable soft landscaping. Given the largely built up character of Kingsmead around the turning head, any 'urbanising' effect which may arise from the proposed dwelling being visible from Kingsmead would be limited as a result of the significant distance the building would be set back from the street and would not be harmful in this respect.
10. The appeal proposal, whilst reducing the area available for soft landscaping towards the south west of the entrance would still leave an area closer to Kingsmead. Coupled with that which lies outside the site on the other side of the access, sufficient area would remain to allow a landscaping scheme to be implemented which has the potential to provide an attractive entranceway into the appeal building and the adjacent new development as well as softening the appearance of the former from Kingsmead. Such a landscaping scheme could be required by way of a planning condition.

11. In taking all these matters into account the proposal would not harm the character and appearance of the area. As such it would accord with Policies D1, D2 and D8 Welwyn Hatfield District Plan, 2005 as supported by the Supplementary Design Guidance. Together these require that development is of a high quality design standard which maintains, respects and relates to the character and context of the area as well as including landscaping as an integral part of the overall design.

Living conditions of neighbours

12. I was able to view the appeal site and its setting of surrounding gardens from within the grounds of 7, 9, 11 and 11a Kingsmead as part of my site inspection which, with the exception of No 11a, bound the appeal site. The proposed house would be conspicuous from surrounding properties and their gardens. In particular the proposed building would be located close to the boundary with the garden of No 7. Such proximity to surrounding gardens would mean that the relationship would be a sensitive one.
13. However, notwithstanding its proximity to the boundary with No 7, the design of the proposal with a roof sloping away from that boundary above ground floor level would limit its visual effect. The combination of its height, bulk and situation within the site would avoid the proposed dwelling from having an intrusive or overbearing effect on neighbouring properties or their gardens. The distance the gable of the proposed building would be set back from the adjoining gardens of Nos 9 and 11 would limit its visual effect from those aspects. Similarly, the relationship between the proposed dwelling and No 21 would not give rise to an unacceptable visual effect on that property.
14. Therefore, although it would be noticeable from adjoining properties and particularly parts of their gardens, the effect would be one which would not materially harm the living conditions of neighbouring occupiers. The retention of the existing tree in the corner of the site and new landscaping within the site along its boundaries with surrounding gardens, which could be required by way of conditions, would further assist in limiting the new building's visual effect on surrounding properties.
15. Interested parties have drawn my attention to the existing house at No 17 which they consider illustrates harmful effects likely to be displayed by the appeal scheme. No 17 is a substantial dwelling which by virtue of its height, scale and appearance is an imposing building clearly visible from the gardens of surrounding properties. The drawings indicate that the ridge height of the proposed building would be only slightly lower than that of No 17. However, the proposed dwelling would have a materially different design including, but not limited to, the significantly lower eaves level, the majority of first floor accommodation being set within the roof slope and elements with a lower ridge height, features which are included on that part of the proposed building closest to the boundary with No 7.
16. Reference has also been made to a previous appeal decision¹ dismissing an earlier scheme of four houses on the adjoining site. However, as the Council's Development Management Committee Report points out, there are material differences between that scheme and the current proposal. In particular the relationship of the proposed dwelling on Plot 1 of that scheme which the

¹ Ref APP/C1950/A/14/2218785.

Council advise would have presented a three storey elevation to the rear of Nos 5 and 7, a harmful effect which would not be shared by the proposed building currently under consideration.

17. I have been presented with little substantive evidence which would lead me to disagree with the Council's assessment that the proposed dwelling would not lead to unacceptable effects on neighbours' living conditions as a result of other aspects of the development including any loss of privacy as a result of overlooking.
18. The proposed dwelling, in particular its visual effects, would not materially harm the living conditions of the occupiers of neighbouring properties and as such would avoid conflict with the National Planning Policy Framework's (the Framework) core planning principle of always seeking a good standard of amenity for all existing occupants of land and buildings.

Other Matters

19. Interested parties in responding to the original application and the appeal have raised concerns relating to a number of other matters, including the effect the proposal would have on flooding, highway safety, biodiversity and the size of amenity space future occupiers would have access to. These aspects were considered in the Council's Development Management Committee Report and there is little evidence to suggest that, in finding that the proposal was acceptable in these respects, the Council was incorrect.
20. I have considered the concern that the acceptability of the scheme would set a precedent for more housing development in the area. However, no similar or comparable sites to which this might apply have been put forward and a generalised concern of this nature would not be a justification for withholding permission in this case. That a large proportion of the site is outside of the appellant's ownership is not an issue which has had a material bearing on my assessment of the planning issues in this appeal. These other matters do not suggest that the proposal would otherwise be unacceptable and do not therefore lead me to a different conclusion.

Conditions

21. The Council have provided, without prejudice, a list of suggested condition and I have also referred to those in the Development Management Committee Report which the appellant would have seen. I have considered these in light of the requirements of the Planning Practice Guidance making appropriate alterations.
22. It is necessary to specify the approved plans as this provides certainty. It is necessary for construction storage and delivery details to be approved to avoid any harm to highway safety. In order to protect the existing tree on the site it is necessary to require a tree protection plan and restrict work which may harm its retention during construction. In order for these requirements to be effective details would have to be approved before the development commences.
23. For clarity I have separated this requirement from the landscaping condition and included reference to the appropriate British Standard. It is necessary to approve a landscaping scheme which can ensure that both the garden of the proposed dwelling has appropriate boundary treatments to protect the living

conditions of neighbours and future occupiers and that an appropriate scheme is implemented alongside the access road in the interests of the area's character and appearance. For the latter reason external materials need to be approved.

24. Given the relatively confined dimensions of the site and its sensitive relationship to neighbouring properties exceptionally it is necessary to remove permitted development rights for extension to the building and its roof as well as curtilage structures to protect neighbours' living conditions as well as to protect the retained tree. The blank panels and privacy screen in the side dormer need to be implemented and retained as shown to avoid any harmful overlooking of No 17 arising.

Conclusion

25. For the above reasons, and having had regard to all other matters raised, the proposal would not materially harm the area's character and appearance or the living conditions of neighbouring occupiers and would accord with the development plan and the Framework. The appeal is therefore allowed.

Geoff Underwood

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 approved plans and details: PL 01 Rev A, PL 02 Rev A1 & PL 03, PL 04 and PL 05 received and dated 23 February 2016.
- 3) Prior to the commencement of the development hereby permitted an area for parking, storage and delivery of materials associated with the construction of this development shall be provided within the site in accordance with details which have first been submitted to and approved in writing by the local planning authority.
- 4) 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) shall have been submitted to and approved in writing by the local planning authority. The tree protection plan and arboricultural method statement shall include details of how trees and hedges within and adjacent to the site will be protected during construction and include a plan identifying areas within the root protection areas or under the canopy spread, whichever is the greater, where: no chemicals will be stored, mixed or prepared; no materials or equipment will be stored; no fires will be lit, and; no site washings carried out. The scheme for the protection of the retained trees shall be carried out as approved. In this condition "retained tree" means the existing tree which is to be retained in accordance with the approved plans and particulars.

- 5) Notwithstanding any details on the approved plans, no development other than site clearance and preparatory work shall take place until further full details on a suitably scaled plan of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping details to be submitted shall include:-
- a. Means of enclosure and boundary treatments;
 - b. Existing and proposed finished levels and finished floor levels of the dwelling;
 - c. Planting plans, including specifications of species, sizes, planting centres, number and percentage mix;
 - d. Details for all hard surfacing;
 - e. Details of retained trees identified under condition 4, and ;
 - f. A landscape maintenance plan demonstrating how any dead or damaged vegetation will be replaced over a five year period.

Subsequently, these works shall be carried out as approved.

- 6) All planting, seeding or turfing and soil preparation comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the building or the completion of the development, whichever is the sooner. Any 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 in accordance with the approved landscape maintenance plan. All hard landscaping and means of enclosure and boundary treatments, other than those consisting of planting, are to be implemented before the first occupation of the building. All means of enclosure and boundary treatments are to be retained for the lifetime of the development.
- 7) No construction above foundation level shall take place until samples 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 implemented using the approved materials and subsequently the approved materials shall not be changed.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no development within Classes A, B and E of Part 1 of Schedule 2 shall take place.
- 9) That part of the first floor dormer window on the north eastern side elevation of the dwelling shown as obscured and the associated 'privacy screen', as detailed on drawing numbers PL 03 and PL 04, shall be installed prior to the first occupation of the dwelling hereby permitted and shall be retained for the lifetime of the development.