

Appeal Decisions

Site visit made on 11 October 2016

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 3 November 2016

Appeal A Ref: APP/A1910/W/16/3151485

The Chilterns, 11 Covert Close, Northchurch, Berkhamsted HP4 3SR

- 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 Mrs Aneta Swierk against the decision of Dacorum Borough Council.
 - The application Ref 4/00379/16/FUL, dated 11 February 2016, was refused by notice dated 12 April 2016.
 - The development proposed is demolition of existing dwelling and erection of 4 x 3 bed house with integral garages and amenity spaces.
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Appeal B Ref: APP/A1910/W/16/3152612

The Chilterns, 11 Covert Close, Northchurch, Berkhamsted HP4 3SR

- 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 Mrs Aneta Swierk against the decision of Dacorum Borough Council.
 - The application Ref 4/01012/16/FUL, dated 12 April 2016, was refused by notice dated 15 June 2016.
 - The development proposed is demolition of existing dwelling and erection of 3 x 4 bed houses, integral garage and amenity space.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Application for costs

2. An application for costs was made by Mrs Aneta Swierk against Dacorum Borough Council. This application is the subject of a separate Decision.

Procedural Matters

3. Clarification has been provided of the correct title of the appellant after different titles were used on different forms. The correct title has been used in these decisions.
 4. The second reason for refusal in the decision notice for the Appeal B scheme and the Council's appeal statement refer to five bed houses. However, the plans, application form, decision notice and appeal form make it clear that the scheme involves four bed houses. I have therefore considered the proposal in Appeal B on this basis.
 5. In its appeal statement, the Council confirm that Policy 13 and Appendix 7 of the Dacorum Borough Local Plan (adopted 21 April 2004) ('the Local Plan') are not relevant for the appeals and should not have been included in the reasons
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for refusal. I have therefore disregarded these parts of the Local Plan for the purposes of these appeal decisions.

6. The appellant highlights a third appeal for this site involving the demolition of the existing building and construction of six flats. This is being dealt with by a separate Inspector and a decision has not yet been issued at the time of issuing these decisions. As a consequence, it would not be appropriate for me to have any regard to this third appeal. For the avoidance of doubt, I have determined these two appeals on their own merits.

Main Issues

7. The main issues in both appeals are the effect of the proposals on:
 - (a) the character and appearance of the area;
 - (b) the living conditions of occupiers of neighbouring properties with regards to outlook, privacy and light; and
 - (c) the living conditions of future occupants of the proposed schemes.

Reasons

Character and appearance

8. 11 Covert Close is located on the corner of Covert Road and Covert Close and contains a large detached property fronting onto Covert Close. The existing property is set back from Covert Road by its side garden and boundary planting, with grass verges on the corner of the two roads. While prominent due to its size, it does not dominate the junction of Covert Road and Covert Close because of its siting and landscaping.
9. Covert Road is characterised by single and two storey detached or semi-detached properties, including properties opposite the appeal site that form part of Dell Road but back onto Covert Road. Covert Close rises steeply from Covert Road and consists of large chalet bungalows. Properties on both streets are set back from the road by gardens. The building line along Covert Road is broadly consistent from Darr's Lane to the south-east up to and including 11 Covert Close, but then steps back considerably for 53-57 Covert Road which have long front gardens. 11 Covert Close also follows the building line on the north-west side of Covert Close.
10. Plot sizes for existing properties in the area are large with ample garden space. In addition, the grass verges, boundary planting and set back of the existing property at 11 Covert Close from Covert Road, along with the long front gardens for Nos 53-57, provides an attractive green and open character and appearance to the area surrounding the appeal site.
11. The Appeal A scheme would involve four terraced properties fronting onto Covert Road with a footprint that would go significantly beyond the building line of the existing property towards Covert Close and Covert Road. The current landscaping to the side of the existing property would be greatly eroded by both the new properties and hardstanding for parking. While some soft landscaping would be retained in front of the properties, it would be a fraction of the existing greenery.

12. The width of the plots and dwellings in the Appeal A scheme would be very narrow, and the introduction of terraced townhouses would be incongruous for the area. The terraced housing on the corner of Covert Road and Ashby Road known as Home Farm has the character and appearance of almshouses that is quite different to the proposed development. I note that the height of the terrace would be partly offset by the topography with properties to the south-west on higher ground. I also recognise that the building line of 53-57 Covert Road is abnormally deep for Covert Road. Nevertheless, the development would be tall, bulky and very prominent and would thus be visually intrusive within the surrounding area.
13. The Appeal B scheme would involve three detached properties fronting onto Covert Close. The building typology and height would be more in keeping with the area and the building line at front and back would largely mirror the building line of the existing property. However, the Plot 3 dwelling would be positioned mostly beyond the side building line of the existing property, greatly eroding the current open space and landscaping.
14. The widths of the plots and dwellings would be closer in size to existing properties in the surrounding area, but the amount of private external spaces would be very restricted, especially for the dwellings on Plots 1 and 2. The rear gardens would not necessarily be highly visible from Covert Road depending on boundary treatments, but the dwellings would be noticeably close to the boundaries at the side and rear. As a result, the dwellings would appear cramped within their plots. Overall, the development proposed in Appeal B would be cramped, very prominent and visually intrusive.
15. The appellant argues that Policies CS4 and CS10 of the Dacorum Core Strategy (adopted 25 September 2013) ('the Core Strategy') and Policies 10 and 21 of the Local Plan promote higher density development in urban areas and encourage the effective use of land including the reuse of previously developed land. In terms of density, the Appeal A scheme would represent around 70 dwellings per hectare while the Appeal B scheme would represent around 50 dwellings per hectare. In both schemes, the density and form of development would not be compatible with the surrounding area. The site is not located in a town centre or local centre and so would not full comply with the above policies which focus higher densities to such locations. While the number of units promoted with each scheme is commensurate with the size of the settlement in which they would be located, in accordance with Policy CS1 of the Core Strategy, the site specific circumstances indicate that there would be harm.
16. Concluding on this main issue, the effect of both appeal schemes on the character and appearance of the area would be harmful and thus would not accord with Policies CS1, CS4, CS10, CS11 and CS12 of the Core Strategy. Amongst other things, these policies seek appropriate residential development that causes no damage to the existing character of the settlement, considers local character and its relationship with the location and physical context, respects typical densities of an area, preserves active streetscapes, avoids visual intrusion and respects adjoining properties.
17. The appeal schemes would also not accord with Policies 10, 18, 21 and 111 of the Local Plan. Amongst other things, these policies seek development that is compatible with the character, density and building height of the area. The schemes would also be contrary to Appendix 3 of the Local Plan which seeks a

good layout and design of residential areas and would not meet the aims of the National Planning Policy Framework (NPPF) which seeks good design that responds to local character and reflects the identity of local surroundings.

Living conditions of neighbouring occupiers

18. As noted above, the ground rises to the south-west with 10 Covert Close and 53 Covert Road sitting higher than the existing property at 11 Covert Close. The front elevation of 10 Covert Close faces directly towards the existing property below rather than towards the road. No 10 is a bungalow and its ground floor windows and door on the front elevation are clearly visible from the existing rear garden at No 11 looking up above the boundary fence. Due to the proximity of the existing property and the north-east orientation of the front elevation of No 10, the amount of daylight and sunlight to the front elevation of No 10 is already restricted.
19. 53 Covert Road is a two storey property and has the same front building line as 10 Covert Close. Existing boundary planting between the front garden of No 53 and the rear garden of 11 Covert Close helps to screen the front elevation of No 53 from the rear garden of No 11, but there are gaps in the vegetation allowing for views of first floor windows. These views are at an angle rather than face on. Light levels to the front elevation of No 53 are not greatly affected by the existing property and boundary treatment given the angled position of No 53 and its extensive front garden.
20. Properties on the opposite side of Covert Road, forming part of Dell Road (Nos 1A, 1B, 1 and 3), are at a lower level than the appeal site and first floor rear windows are visible from the garden to the side of the existing property at No 11. There is a considerable gap between the Dell Road properties and the existing property, with little effect on light levels as a result.
21. The dwellings proposed in Appeal A would be markedly taller than the existing property, although the ground level would be excavated and the dwellings positioned nearer to Covert Road. The plans show indicative new planting along the boundary with No 10 and retained trees along the boundary with No 53. The dwellings would occupy much of the width of the appeal site between Covert Close and the side boundary of No 53. This would result in a longer and bulkier rear elevation facing towards No 10 and No 53 than the side elevation of the existing property. The view from the front elevations of No 10 and No 53 would be more dominated by built development, which would only be partially offset by screening and the position of the dwellings. The view from No 53 would be oblique and less harmed than the direct views from No 10, but there would be harm to living conditions of occupiers of both properties in terms of outlook. The view from the rear elevations of properties on Dell Road would similarly be more dominated by built development, with the dwellings nearer and taller to these properties than the existing property. As such, there would be harm to living conditions of occupiers of 1A, 1B, 1 and 3 Dell Road in terms of outlook.
22. There would be windows on the rear elevation of the Appeal A dwellings at ground, first floor and roof level, serving habitable rooms, with a separation distance to No 10 approximately six metres less than is sought by Appendix 3 of the Local Plan. Screening would provide some mitigation but vegetation would take time to establish and would be affected by the seasons. As such, it would not completely block views from the rear elevations of the dwellings to

No 10, especially from the first floor and roof level. Thus, there would be some harm to the living conditions of occupiers of No 10 in terms of privacy. Views to No 53 would be oblique and thus less harmful to the privacy of occupiers of this property. While the dwellings would be nearer to the rear elevation of properties on Dell Road with greater bulk than the existing property, a separation distance of around 24 metres would be achieved to lessen harmful effects on privacy for the occupiers of these properties.

23. The positioning of the dwellings nearer to Covert Road would provide a greater distance to No 10 and No 53 than the existing property. The dwellings would also be to the north-east of these elevations. There would be some increased shadowing of the front garden to No 53, but it is a long garden and would only affect the parts nearer to Covert Road. As such, there would not be a harmful effect on the living conditions of No 10 and No 53 in terms of daylight and sunlight. For the properties on Dell Road, despite the dwellings being nearer and bulkier, sufficient separation distance would remain to avoid a harmful effect on light for the occupiers of these properties, including their gardens.
24. The dwellings proposed in Appeal B would occupy much of the site width between 10 Covert Close and Covert Road. The Plot 1 dwelling would be marginally nearer to the shared boundary with No 10 than the existing property, but would be markedly taller and deeper. The view from the front elevation of No 10 would thus be more dominated by built development than it currently is, while the proximity and greater size would worsen effects on daylight if not sunlight due to the orientation. As such, there would be harm to the living conditions of occupiers of No 10 in terms of outlook and light.
25. The Plot 3 dwelling would be nearer to Covert Road and the rear elevations of properties on Dell Road and would have windows at ground, first floor and roof level on the side elevation. However, a reasonable separation distance would remain to ensure that there would not be harmful effects on the occupiers of these properties in terms of light or privacy.
26. Concluding on this main issue, both appeal schemes result in harmful effects to the living conditions of occupiers at 10 Covert Close, 53 Covert Road and 1A, 1B, 1 and 3 Dell Road. Therefore, both appeal schemes would not accord with Policy CS12 of the Core Strategy which, amongst other things, requires development to avoid visual intrusion, loss of daylight and loss of privacy to surrounding properties. The schemes would also be contrary Appendix 3 of the Local Plan which seeks a good layout and design of residential areas, and would not meet the aims of the NPPF which seeks a good standard of amenity for existing occupants of land and buildings.

Living conditions of future occupants of the proposed development

27. As noted above, the Appeal A scheme would provide a separation distance between rear and front elevations of around six metres less than is sought by Appendix 3 of the Local Plan. This appendix also seeks rear garden depths of at least 11.5 metres, with the appeal scheme providing depths of just over 10 metres. The clear visibility that currently exists between the front elevation of 10 Covert Close and the rear garden of the existing property will be screened to some extent by proposed boundary planting, but this screening will not be absolute. There would likely be some overlooking of the rear gardens and elevations of the proposed dwellings from the front elevation of No 10 which would result in some harm to the living conditions of future occupants in terms

- of privacy. The gardens would be longer than the rear garden of the existing property, but this does not negate the harm I have identified.
28. The Appeal B scheme would provide garden depths of around 6.5 metres for each dwelling. This would result in little overlooking effects due to the orientation of these gardens, but Appendix 3 also seeks longer gardens for larger family homes such as the proposed dwellings. While I accept that the existing property has a similar depth of rear garden to the proposed development, this is for a single dwelling rather than three. The subdivision of an already short garden into three plots would result in gardens too small for the size of property, particularly for the dwellings at Plots 1 and 2. This would have a harmful effect on the living conditions of future occupants in terms of the provision of private external space.
29. The appellant points to the proximity of public open space to mitigate the size of private external space. At my site visit, I did not see any public open spaces in the surrounding area. The appellant only explicitly cites Northchurch Common, which is approximately 1 kilometre away along the A4251 and B4506 and thus not readily accessible.
30. Concluding on the main issue, the effect of both appeal schemes on the living conditions of future occupants of the proposed development would be harmful and thus contrary to Appendix 3 of the Local Plan which seeks a good layout and design of residential areas. The appeal schemes would also not meet the aims of the NPPF which seeks a good standard of amenity for future occupants of land and buildings.

Other Matters

31. In its appeal statement, the Council now states that the two appeal schemes would fail to provide sufficient parking and sufficient spaces for servicing. As such, the Council now considers that the both appeal schemes would fail to comply with Policy CS13 of the Core Strategy and Appendix 5 of the Local Plan¹. I have not been presented with any change in circumstances since the Council determined the original planning applications to explain why the Council should now be raising highway and parking concerns. I note that a number of local residents have raised such concerns throughout the application and appeal process as well as other concerns. Given my findings on the main issues, it has not been necessary to address any of these other matters in any detail, including highways and parking concerns.

Conclusion

32. I have found that the development proposed in Appeal A and Appeal B would result in harm to the character and appearance of the area, the living conditions of neighbouring occupiers and the living conditions of future occupants of both developments. For these reasons, and having had regard to all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

Tom Gilbert-Wooldridge

INSPECTOR

¹ Appendix 7 is mentioned in paragraph 6.19 of the Council's appeal statement, but it is evident that this appendix is not relevant and that Appendix 5 on parking provision is the correct appendix.