

Appeal Decision

Site visit made on 31 October 2016

by Jonathan Hockley BA(Hons) DipTP MRTPI

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

Decision date: 01 December 2016

Appeal Ref: APP/A1910/W/16/3156127

Land to the rear of 27-33 Grove Road, Tring, Hertfordshire HP23 5HA

- 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 Braybeech Homes Limited against the decision of Dacorum Borough Council.
 - The application Ref 4/00069/16/FUL, dated 8 January 2016, was refused by notice dated 3 June 2016.
 - The development proposed is the construction of six dwellings comprising four detached and two conjoined.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of six dwellings comprising four detached and two conjoined at Land to the rear of 27-33 Grove Road, Tring, Hertfordshire HP23 5HA in accordance with the terms of the application, Ref 4/00069/16/FUL, dated 8 January 2016, subject to the conditions set out at the end of my decision.

Application for costs

2. An application for costs was made by Braybeech Homes Limited against Dacorum Borough Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue in this case is the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

4. The site lies towards the northern end of Tring, and is located in a triangle of land between Grove Road and Wingrave Road. The site comprises the partial back gardens of Nos 27-33 Grove Road. Access would be gained through a new driveway constructed between Nos 27 and 29, where an existing garage stands at present.
 5. The character of the area is fairly mixed, with a range of dwellings present. To the south of the site lies Grove Gardens, a fairly modern sinuous estate which uses the same triangle of land between Grove and Wingrave Roads, albeit in a larger area as this is located further from the junction of the two roads. Grove Road itself has a wide range and ages of housing located on it, with Nos 33-35 being semi detached dwellings with flat roofed porches, Nos 29-31 having
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hipped roofs and double height canted gabled bay windows to front, and No 27 being an older detached property. The age and variety of houses continues along the street, with a range of detached and semi-detached dwellings, including modern houses and a detached bungalow. Wingrave Road, at least on its eastern side, is more regularised, with an attractive broken row of terraced properties forming New Mill Terrace.

6. There is a reasonable drop in levels between Grove Road and Wingrave Road. Whilst the rear part of the southern area of the site is set on a similar level to Grove Road, the northern area of the site drops noticeably. Beyond the site the land continues to drop towards New Mill Terrace. These properties are set above the height of Wingrave Road. On my visit I walked the garden of No 26 New Mill Terrace, which climbs appreciably towards the site boundary. The gardens that the site comprises are all reasonably mature and have a range of landscaping present. There are also a range of mature trees on the rear boundary of the site, including some trees within the site itself, and a fair number located on the other side of the boundary line in the ownership of adjacent properties.
7. The Dacorum Borough Local Plan 1991-2011 was adopted in 2004 (the Local Plan). Supplementary Planning Guidance (SPG) in the form of Area Based Policies was adopted around the same time. Appendix 3 of the Local Plan concerns the layout and design of residential areas and states that proposals should be guided by the existing topographical features of the site and its immediate surroundings, respecting the character of the area and ensuring proper space for the proposed development without creating a cramped appearance, whilst introducing variety and imagination in layout and design. SPG4 concerns development in residential areas and is intended to complement and amplify the provisions of the Local Plan.
8. Within SPG4 both parties are in agreement that the appeal site lies within the Tring Character Area (TCA) 13, New Mill West. TCA13 states that the area mainly comprises of small developments of terraced housing of varying ages. Houses are mainly two storeys, staggered in layout, with spacing of less than 2m. The assessment states that the area has a limited opportunity for residential development, where infilling may be acceptable according to the development principles. These development principles state that there is scope for variation and innovation in housing design, that terraced dwellings are encouraged, and properties should not exceed two stories in height and the existing layout structure should be maintained throughout the area. Density would be acceptable in the medium range of 30-35 dwellings per hectare.
9. The proposal seeks to construct 6 dwellings, with 4 detached properties and 2 semi-detached dwellings. The properties would be 2 ½ storeys in height, with rooms in the roof space served by rooflights and small dormers. Subject to appropriate materials, I consider that the design of the dwellings would add to the varied character of the surrounding area, and although larger properties in footprint, would not appear radically dissimilar to the fairly new properties in nearby Sinfield Place, with part gabled frontages and prominent ground floor square bay windows, and dormer windows in the roof to rear. Whilst the height of the dwellings may be higher than some of those in the surrounding area, the site sections demonstrate that such heights would be similar to those of the properties on Grove Road, and due to the levels of the site would ensure

that the proposed units would appear subservient to these frontage properties from the main road.

10. The proposed dwellings would be set in a rough line to follow the access road, facing towards the rear of the properties on Grove Road. Spacing between the properties would be less than 2m at the building's façades. Plots 1-4 are located in a shallower part of the site and back onto the rear of properties on Grove Gardens, whilst Plots 5-6 back onto the rear gardens of properties in New Mill Terrace. As a consequence, Plots 5 & 6 would have longer gardens than Plots 1-4 would have. The density of the site is stated to be 29.41dph, slightly lower than the principle within TCA13.
11. The Council note that long linear gardens are a fundamental part of the character of this area of Tring. To a limited extent I agree with this statement; some of the existing houses on Grove Road and New Mill Terrace do have long gardens. However, this is a reflection of the pattern of development leading off the two roads of Grove Road and Wingrave Road, and the triangle of land that is formed between the roads. As a consequence, whilst gardens in the direct vicinity of the site are fairly long, lengths are reduced the closer you get to the junction of the two roads to the north and within the Grove Gardens development to the south.
12. The gardens of the proposed units would be of a reasonable size and equate to many of the surrounding properties to the south of the site, providing a good standard of amenity to the future residents of the proposal. The ratio of built form to site area is some 25%, according to the appellant's figures. This would appear reasonable given the prevailing character of the area, and would provide each property with acceptable amounts of amenity space, making sure that the site would not appear cramped or overdeveloped. The landscaping set between parking spaces and the amounts of gardens proposed would ensure that hard surfaces would not dominate the site.
13. Distances between the windows on the front of the house and rear windows on the properties fronting Grove Road are in a range from a minimum of just under 20m to around 25m. To the rear, windows are set at a reasonable distance from the closest properties on Grove Gardens. Due to the site levels, there is potential for overlooking to occur from the proposed properties towards those set on lower ground, such as New Mill Terrace. However, these properties are set further away from the site than Grove Gardens, at a distance of some 55 metres away, according to the appellant's figures. At such distances the proposal would have little effect on overlooking or sunlight levels, and this distance would also be softened by the extensive landscaping set on or near the rear boundary of the site, which could be supplemented by condition.
14. Whilst the proposal would introduce a new building line into the area, this would be linear and similar therefore to those fronting Grove and Wingrave Roads, and whilst the proposal may include a slightly higher proportion of detached properties than the surrounding development, this would not be significantly higher and not dissimilar to parts of Grove Gardens. I also note that the building lines in Grove Gardens to the south of the site are also varied and sinuous, and do not follow the linear lines of the development further north. Whilst therefore the proposal may be of a partially different spatial pattern to some surrounding development, this would not be at odds with the overall character and rhythm of the surrounding area.

15. To all intents and purposes therefore the site would be similar to, or match the prevailing character of the area. Density of the site would be at a comparable level to the surrounds, and the design of the properties would also assimilate well into the local character. The heights of the proposed properties, whilst not strictly two storey, would match other similar modern housing set nearby and the spacing between dwellings would be similar to the prevailing character of the area. Gardens would be of a reasonable size and overall the proposal would not appear as overdevelopment of the site or contrived or cramped.
16. I therefore conclude that the proposed development would not have an adverse effect on the character and appearance of the surrounding area. The proposal would comply with Policies CS11 and CS12 of the Dacorum Borough Council Core Strategy 2006-2031, 2013 (the CS), which together state that development should respect the typical density intended in an area, co-ordinate streetscape design between character areas, integrate with such character, and respect adjoining properties in terms of layout, site coverage, scale, height, bulk, landscaping, and amenity space. The proposal would also comply with SPG4 TCA13, Appendix 3 of the Local Plan, and with the National Planning Policy Framework (the Framework), which states as core planning principles that planning should take account of the different roles and characters of different areas, and always seek to secure high quality design.

Other Matters

17. Appendix 3 of the Local Plan states that minimum distances of 23m between the main rear wall of a dwelling and main wall of another should be met to ensure privacy. This would be met by the proposed development, with the exceptions of Plot 1 and 2 to the rear extension of No 33 Grove Road and the rear of Plots 1-3 to the back of properties on Grove Gardens. However, the windows in the rear of Grove Gardens that are closest to the proposed properties do not serve habitable rooms. The windows on Plots 1&2 closest to No 33 would serve bathrooms and would therefore be obscured. Such matters could be conditioned.
18. Given the changes in levels between the site and New Mill Terrace, the mass of the proposed houses would have the potential to appear larger when viewed from these properties. On my visit I viewed the site from the rear of No 26 New Mill Terrace and from an upstairs, second floor bedroom window from an adjacent property. It is clear that the proposed houses would be visible from these vantage points. However, when considering the distance between these dwellings and the existing and proposed landscaping I consider that such views would not be overbearing. When combined with the distances stated in paragraph 13 above, I do not consider therefore that the proposal would have an adverse effect on the living conditions of nearby residents in terms of outlook or overlooking. Landscaping would also help to ensure that privacy levels are maintained for the rear gardens of the properties on Grove Road in front of, or close to, the site.
19. My attention is drawn to paragraph 53 of the Framework. This paragraph states that local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens. However, this is not the case in this instance, where I have concluded that the proposal would comply with the relevant development plan policies.

20. Comments are made regarding the mix of proposed housing, and the lack of affordable housing within the scheme. Policy CS19 of the CS states that affordable homes will be provided on sites of 5 dwellings or more, although judgements about the level mix and tenure will have regard to the overall viability of the scheme. At the time of their decision the Council were content with the details contained within a submitted economic viability assessment which demonstrates that the site would not be viable with an affordable housing contribution. Furthermore, in this respect I also note the contents of the Government's Planning Practice Guidance, which states that contributions for affordable housing should not be sought from developments of 10 units or less.
21. An ecological survey¹ was submitted with the application. This survey notes that the site is dominated by amenity grassland with areas of ornamental planting, and considers the site to be of negligible ecological value with a moderate likelihood of supporting breeding birds. The survey recommends that bird boxes are sited on the appeal site, and habitat enhancement measures are carried out. A separate Bat survey² was also carried out to consider if any outbuildings on the site were likely to be used by roosting bats. This survey concluded that one building, the garage that would need demolishing to allow the proposed access to be constructed, has low habitat value and recommended an emergence survey be undertaken between May-September.
22. Subsequently such a survey has been undertaken³. This survey did not detect any bats emerging from the garage or any other structures or features on the site, although bats were detected commuting past and foraging around the site having travelled from other nearby habitats. I therefore conclude that, with the imposition of suitable conditions, the proposal would conserve biodiversity.
23. Concern is raised over matters of drainage. I can appreciate that given the low lying nature of New Mill Terrace in relation to the site that the development of the proposal could lead to adverse impacts in terms of water run off from the site. The application notes that sustainable urban drainage techniques will be utilised. Such matters could be conditioned to ensure that full details are approved by the Council prior to development commencing.
24. The access to the proposed site would be located between Nos 27 and 29 Grove Road. At this location the speed limit is 30mph and visibility is reasonably good in both directions. Following the submission of further details the highways authority raised no objection to the proposal subject to the imposition of various conditions including visibility splays, a swept path analysis of the access and a Stage 1 safety audit. They are therefore content for such matters to be conditioned, and all such conditions would be both reasonable and necessary to ensure that the proposal has no adverse impact on highway safety and that safe access and egress from the site was created, including for emergency vehicles if necessary, and ensuring that visibility splays are adequate and maintained.
25. The proposal would build 6 houses and provide 3 off street car parking spaces for each property, including an integral garage and two spaces on a driveway. This would be ample parking for such a development located within a

¹ Ecological Assessment, 24/03/16, Arbtech

² Bat Survey – Preliminary Roost Assessment, 24/03/16, Arbtech

³ Single Emergence Survey, Bats, August 2016, Wildlife Conservation Partnership

reasonably sustainable location. The amount of traffic generated by the scheme would not be significant, and I do not consider that this amount of traffic, particularly when coupled with the low speeds that vehicles would be accessing the proposed dwellings due to the street layout, would adversely impact upon the living conditions of neighbouring residents with regards to noise and disturbance.

26. A near neighbour raises concerns over the lack of enforcement relating to the planting of trees at Sinfield Place, and considers that this situation could occur similarly with the proposal in this case. However, I consider the landscaping proposals to be made in good faith. Such matters would be committed to via condition, and it is the local planning authority's responsibility to ensure that the details agreed under such conditions are fully implemented.
27. Concern is also raised over matters of precedent, with references made to adjoining gardens which could be developed. Reference is also made to a new potential scheme for the same site which has fewer dwellings proposed. However, each case must be dealt with on its own merits. I have considered the proposal on the basis of the information provided to me.

Conditions

28. I have imposed a condition specifying the relevant drawings as this provides certainty. In the interests of the character and appearance of the area, I have also imposed a condition requiring materials to be used for the external surfaces of the proposal to be agreed by the local planning authority. For the same reason, I have also imposed conditions requiring details of hard and soft landscaping, including full details of all trees to be planted and retained on the site, and proposed boundary treatments to be agreed with the local planning authority prior to development taking place. A condition is also imposed to ensure that any landscaping which fails within 5 years of planting will be replaced. Such conditions are also necessary for biodiversity reasons and in the interests of the living conditions of surrounding residents.
29. The Council's contaminated land officer considers that as the site is located within the vicinity of potentially contaminative former land uses, conditions should be imposed to ensure that any contamination on the site is considered, and dealt with, prior to the development taking place. Given the proposed residential use of the site I consider such conditions to be both reasonable and necessary, in the interests of both the living conditions of the future occupiers of the proposal and the water environment.
30. As stated above, I have also imposed conditions relating to highway issues, in the interests of highway safety, and a condition to ensure that the recommendations of the ecological survey are carried out, in the interests of biodiversity. To ensure that the living conditions of neighbouring residents are protected, I have imposed the Council recommended conditions to ensure that the bathroom windows in plots 1-5 are fitted with obscured glass and retained, although I have amended this condition slightly to remove reference to a bedroom window of Plot 1, which would not be set any closer to the rear of properties in Grove Gardens than Plot 2.
31. The Council have recommended conditions are imposed to withdraw permitted development rights for the proposed properties for various classes of development, as well as to ensure that the garages should be kept for car

parking. Paragraph 200 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification for doing so. The Planning Practice Guidance advises that conditions restricting the future use of permitted development rights or changes of use "will rarely pass the test of necessity and should only be used in exceptional circumstances".

32. The proposed conditions would restrict the enlargement, improvement or other alteration to the proposed houses, roof additions and alterations, the construction of porches, outbuildings, gates, walls and fences, means of access to a highway and the painting of the exterior of any house. The permitted development rights the Council seek to restrict are therefore fulsome and wide ranging. The reasons provided for such conditions are to enable the local planning authority to retain control over the development in the interests of safeguarding the residential and visual amenity of the locality.
33. Given the proximity of neighbouring residents I consider that the restriction of Schedule 2 Part 1 Classes B & C concerning roof extensions is necessary in this case. I also consider that there is clear justification for restricting permitted development rights concerning the use of the integral garages, given highway safety matters and the need to ensure adequate parking provision for each property within the overall site. However, I fail to see how the restrictions on the other stated permitted development rights are necessary and there does not appear clear justification for doing so. I have therefore amended the first condition to only such matters. I have also updated both conditions to refer to the 2015 order.
34. Finally, I have imposed a condition requiring details of surface water drainage to be submitted to and agreed by the local planning authority prior to commencement of development. Such a condition was suggested in the Council's Officer's report to committee but not in their list of recommended conditions. Drainage, as referred to above, was raised by various interested parties including the Town Council, and I consider that such a condition is both reasonable and necessary in the interests of the water environment and the living conditions of neighbouring residents.

Conclusion

35. I have concluded that the proposal would not have an adverse effect upon the character and appearance of the area. Therefore, for the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jon Hockley

INSPECTOR

SCHEDULE OF 18 CONDITIONS

- 1 The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2 No development shall take place until details 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. Development shall be carried out in accordance with the approved details.
- 3 No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include: hard surfacing materials; means of enclosure; soft landscape works which shall include planting plans; written specifications; schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; trees to be retained and measures for their protection during construction works; proposed finished levels or contours; car parking layouts, and other vehicle and pedestrian access and circulation areas. All hard and soft landscape works shall be carried out in accordance with the approved details prior to the first occupation of the development hereby permitted.
- 4 The plans and particulars submitted in accordance with condition 3 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.
- 5 The details to be submitted in accordance with condition 3 above shall include a scheme indicating all of the proposed means of enclosure within and around the site whether by means of walls, fences or hedges. The approved means of enclosure around the external boundaries of the site shall be constructed, erected or planted prior to the commencement of other construction work on site and the approved means of enclosure within the site shall be constructed, erected or planted at the same time as the buildings to which it relates are constructed.
- 6 If within a period of five years from the date of any planting in accordance with conditions 3 and 4 above, any planting is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), further planting of the same species and size as that originally planted shall be planted at the same place in the next planting season.
- 7 Prior to the commencement of the development hereby permitted a Phase I Report to assess the actual or potential contamination at the site shall be submitted to and approved in writing by the local planning authority. If actual or potential contamination and/or ground gas risks are identified further investigation shall be carried out and a Phase II report shall be submitted to and approved in writing by the local planning authority prior to the commencement of the development. If the Phase II report establishes that remediation or protection measures are necessary then a Remediation Statement shall be submitted to and approved in writing by the Local Planning Authority. For the purposes of this condition:
 - A Phase I Report consists of a desk study, site walkover, conceptual model and a preliminary risk assessment. The desk study comprises a search of available information and historical maps which can be used to identify the likelihood of contamination. A simple walkover survey of the site is conducted to identify pollution linkages not

- obvious from desk studies. Using the information gathered, a 'conceptual model' of the site is constructed and a preliminary risk assessment is carried out.
- A Phase II Report consists of an intrusive site investigation and risk assessment. The report should make recommendations for further investigation and assessment where required.
 - A Remediation Statement details actions to be carried out and timescales so that contamination no longer presents a risk to site users, property, the environment or ecological systems.
- 8 All remediation or protection measures identified in the Remediation Statement referred to in Condition 7 shall be fully implemented within the timescales and by the deadlines as set out in the Remediation Statement and a Site Completion Report shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development hereby permitted. For the purposes of this condition a Site Completion Report shall record all the investigation and remedial or protection actions carried out. It shall detail all conclusions and actions taken at each stage of the works including validation work. It shall contain quality assurance and validation results providing evidence that the site has been remediated to a standard suitable for the approved use.
- 9 Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the prior written approval of the local planning authority: Schedule 2 Part 1 Classes B and C.
- 10 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) the garages hereby permitted shall be kept available at all times for the parking of vehicles associated with the residential occupation of the dwellings and they shall not be converted or adapted to form living accommodation.
- 11 The lower section of the bathroom windows at first floor level in the north-western elevations of Plots 1, 2, 3 and 4; the bathroom window at first floor level in the south-eastern elevation of Plot 5; along with the other windows shown with their lower sections fitted with obscured glazing on Drawing Numbers BBH/005/PL/02, 03 and 04 respectively hereby permitted shall be permanently fitted with obscured glass.
- 12 The proposed car parking spaces shall have measurements of 2.4m x 4.8m min. Such spaces shall be maintained as a permanent ancillary to the development and shall be paved and used for no other purpose.
- 13 Construction of the development hereby approved shall not commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall include details of:
- a. Construction vehicle numbers, type, routing;
 - b. Traffic management requirements;
 - c. Construction and storage compounds (including areas designated for car parking);
 - d. Siting and details of wheel washing facilities;

- e. Cleaning of site entrances, site tracks and the adjacent public highway;
 - f. Timing of construction activities to avoid school pick up/drop off times;
 - g. Provision of sufficient on-site parking prior to commencement of construction activities;
 - h. Post construction restoration/reinstatement of the working areas and temporary access to the public highway.
- 14 Prior to first occupation a plan showing visibility splays shall be submitted to and approved in writing by the Local Planning Authority. The approved splay shall be implemented and thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
- 15 Before first occupation or use of the development the access roads and parking areas as shown on the approved plans shall be provided and maintained thereafter.
- 16 The development hereby permitted shall be undertaken in accordance with the mitigation and recommendations identified within the Arbtech Ecology Assessment dated 24 March 2016.
- 17 The development hereby permitted shall be carried out in accordance with the following approved plans/documents SITE LOCATION PLAN, BBH/005/PL/01, BBH/005/PL/02, BBH/005/PL/03, BBH/005/PL/04, BBH/005/PL/05, BBH/005/PL/06, BBH/005/PL/07.
- 18 Development shall not take place until a scheme for surface water drainage, including timing, phasing and works, has been submitted to and approved in writing by the local planning authority. The agreed scheme shall be implemented in accordance with the approved details.