

Appeal Decision

Site visit made on 13 December 2016

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 17 January 2017

Appeal Ref: APP/X0415/W/16/3158338

Woodchester, Penn Road, Knotty Green HP9 2TU

- 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 Prentice, Woodchester Park Ltd against the decision of Chiltern District Council.
 - The application Ref CH/2016/1035/FA, dated 27 May 2016, was refused by notice dated 22 August 2016.
 - The development proposed is the demolition of the existing bungalow and garage and the erection of a new detached 2.5 storey house and detached single storey garage.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing bungalow and garage and the erection of a new detached 2.5 storey house and detached single storey garage at Woodchester, Penn Road, Knotty Green HP9 2TU, in accordance with the terms of the application, Ref CH/2016/1035/FA, dated 27 May 2016, and the plans submitted with it subject to the conditions on the schedule attached.

Main Issues

2. The main issues are the effect of the proposed development on:
 - the character and appearance of the area; and,
 - the living conditions of the occupiers of 4 Latimer Way and Hawthorn House, having particular regard to outlook.

Reasons

The character and appearance of the area

3. I appreciate that while the footprint of the proposal would remain broadly similar to the existing bungalow, it would introduce a 2-storey house with accommodation in its roof, where there is presently a bungalow. However, the site is substantially greater than neighbouring plots, in which context the additional volume and floor space would not be out of character. The proposal would retain substantial lateral gaps, greater than many of the surrounding houses, and its width and height would be little different to many of those in the area. As such, the proposal would not appear as over development.
 4. I note that the house to the north is a bungalow; however it is set on ground around 1.5m higher than the appeal site. This would reduce the bearing of the proposal in terms of height towards this neighbour, so that it would not appear
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out of scale. Its height would be similar to the neighbouring house to the south-east, Hawthorn House, albeit that the ground of that house is lower. In the context of the surrounding area which includes 2-storey houses with steeply pitched roofs as well as bungalows, the height of the proposal would not be out of scale.

5. The replacement house would be sited closer to the rear boundary and the countryside beyond, however, the greater part of the rear space would be retained undeveloped and it would be partially screened by existing trees and shrubs on the rear boundary. While it may be visible from the footpath and countryside, in the context of the houses beside it and behind it, it would not appear intrusive.
6. I have taken into account the planning permissions for the houses between the proposal and Woodchester Park. Given the significant set-back of the proposed house from the road, either with or without the intervening development, its effect on the street scene would not be harmful.
7. My attention has been drawn to the appeal decision¹ on this site in 2013, which concerned a scheme for two houses rather than one. They were sited considerably closer to the side boundaries of the site than this proposal and they had only a narrow gap between them. The house in this proposal would occupy a lesser frontage than the scheme in that appeal, and its roof would be less bulky. The harm to the character and appearance of the surrounding area from the scheme in that case has not been repeated in this proposal, which is significantly different from it.
8. I conclude that the proposed development would not harm the character and appearance of the area. While I have not been provided with copies of Policies H3, GC1 and GC3 of the Local Plan 1997 (including alterations 2001) consolidated 2007 & 2011 (LP), to which the Council refers, it would not conflict with Policy CS20 of the Core Strategy 2011. This requires development to be of a high standard of design which reflects and respects the character of the surrounding area and those features which contribute to local distinctiveness. Nor would it be at odds with section 7 of the National Planning Policy Framework, which concerns good design.

The living conditions of the occupiers of 4 Latimer Way and Hawthorn House

9. The roof of the proposal would be hipped opposite No 4, and it would be sited further than the present bungalow from the side boundary to No 4's back garden, which is substantially higher than the appeal site, and separated by a boundary of a tall wall with shrubs and trees. In these circumstances, it would not dominate No 4's outlook or appear overbearing or intrusive.
10. Given the distance of the proposed house from No 4 and its higher ground, there would be no loss of light to the rooms of No 4, and no materially harmful overshadowing. For similar reasons, the first floor window in the flank wall of the proposed house which would serve a bathroom, would not reduce the privacy of No 4. I appreciate that the proposal would introduce rear windows at first floor where there are presently none, however given their distance from the garden of No 4 there would be no materially harmful loss of privacy.

¹ Appeal Ref: APP/X0415/A/13/2197399

11. I acknowledge that the proposed house would be sited slightly closer to the side boundary with Hawthorn House than the present bungalow. However, it would be further back than the existing bungalow, and it would maintain a 2-storey separation of around 14m. Furthermore, the end of the house would have sloping roofs, with minimal areas of wall. In these circumstances, the proposed house would not have an overbearing impact on the outlook from Hawthorn House.
12. The window in the flank wall of the proposed house would serve a bathroom and would have a high-level cill, and the first floor bay window at the front would be narrow, and distant from Hawthorn House. They would not provide a materially harmful degree of overlooking. Given its displacement to the north, the height of the side boundary, and the screen planting in front of it, the proposed house would not overshadow the garden of Hawthorn House to a harmful degree.
13. I note that this proposal would be of a similar overall height to the scheme which was dismissed at appeal in 2013 for reasons including its impact on the living conditions of these neighbours. However, given the remodelled form of the house and its siting substantially further from the boundaries, there is no parallel between the two cases.
14. There would be no harm to the living conditions of the occupiers of 4 Latimer Way and Hawthorn House, having particular regard to outlook. I have not been provided with a copy of LP Policy GC3 to which the Council refers. However, there would be no conflict from the proposal with one of the core planning principles of the Framework, which seeks to secure a good standard of amenity for all existing occupants of land and buildings.

Other Matters

15. The views of local residents have been taken into consideration and I have already dealt with what I regard as the main planning issues. There is no evidence that it would destroy a woodland area, cause traffic congestion, affect highway safety, or reduce the privacy of the occupiers of the Waterglades. Being a replacement dwelling, although of greater size, it would not increase the density of the site to a significant degree. On the basis of the information presented, these concerns would not justify reasons for refusal.

Conditions

16. The Council has suggested a number of conditions that it considers would be appropriate were I minded to allow the appeal. I have considered these in the light of the Planning Practice Guidance (PPG); for clarity and to ensure compliance with the PPG, I have amended some of the Council's suggested wording.
17. In addition to the statutory time limit, it is necessary, in order to provide certainty, to impose a condition requiring the development be carried out in accordance with the approved plans. In such proximity to the surrounding dwellings and their gardens, and given the size of the proposed dwelling and its access road, conditions to secure finished levels, finishing materials, boundary treatments, ground surfacing, as well as the protection and replacement of trees, would be necessary to safeguard the character and appearance of the area and to protect the living conditions of neighbours.

18. The details of ground surfacing and boundary treatments may reasonably be provided at pre-occupation stage, however, levels, and the details of external facing materials, because of their position in the construction programme and the lead-in times for materials, would need to be submitted and approved before commencement of development. Conditions for the provision and retention of the access road, parking and turning areas are necessary for highway safety. However, given the lack of parking pressure or congestion in surrounding streets a condition controlling unloading and site operatives' parking is unnecessary. The provisions of permitted development already protect neighbouring occupiers from overlooking from upper floor side windows, in which case, a condition preventing side windows would be unreasonable.
19. Given the size of the proposed house and the proximity and scale of the surrounding houses, and the spacious character of the area, the potential to enlarge the house further without adversely affecting the character and appearance of the area is limited. While the PPG advises that conditions limiting permitted development rights should only be used in exceptional circumstances, I agree that the withdrawal of some rights under Classes A and B (the enlargement, improvement or other alteration of a dwelling house and additions etc. to the roof of a dwelling house) would be necessary. The space retained around the proposed house integrates it with its surroundings, and the articulation of mass and form in the roofscape of the proposal helps to reduce the mass of the development and assists its visual compatibility in the area. On this basis I consider the removal of rights for enlargement under Classes A and B would be reasonable, as the condition would not prevent such development, but would bring it under planning control.

Conclusion

20. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should succeed.

Patrick Whelan

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun within three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16 ZWP SL02 SITE LOCATION PLAN; 16 ZWP SWP03A Detailed Site Proposals; 16 ZWP SWP04 Extract application site plan SWP03A; 16 ZWP SWP05 Extract application site plan SWP03A; 16 ZWP WP01A Replacement House Plans and Sections; 16 ZWP WP02A Replacement House Elevations and Garage Details.
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved levels.
- 4) No development shall take place until samples of all external facing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) The dwelling shall not be occupied until details and samples of the surfacing materials of the access drive, parking areas and pathways have been submitted to and approved in writing by the local planning authority. The access drive shall be provided and all surfacing shall be carried out in accordance with the approved details before any part of the development is first occupied. The access shall be retained thereafter.
- 6) The dwelling shall not be occupied until the garage has been provided and space has been laid out within the site in accordance with the approved plans for vehicles to turn so that they may enter and leave the site in forward gear. The garage and turning space shall thereafter be kept available at all times for the purposes of parking and turning.
- 7) The dwelling shall not be occupied until details of the means of enclosure to be retained and/or erected along the boundaries of the site shall have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved details.
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no enlargements as provided for within Schedule 2, Part 1, Classes A and B of that Order shall be constructed.
- 9) All the trees and hedges within the site and shown on the Tree Protection Plan dated May 2016 as retained and any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be as detailed in the Arboricultural & Planning Integration Report by Messrs GHA Trees and dated 31 May 2016. The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within

those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority. In this condition and in the conditions below, "retained" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 10) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the occupation of the building for its permitted use, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.
- 11) If any retained tree is cut down, uprooted or 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.

End of Schedule of Conditions