
Appeal Decision

Site visit made on 18 January 2017

by L Fleming BSc (Hons) MRTPI

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

Decision date: 30 January 2017

Appeal Ref: APP/A1910/W/16/3157873

Land 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 4/01801/16/FUL, dated 29 June 2016, was refused by notice dated 30 August 2016.
 - The development proposed is construction of five detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of five detached dwellings at Land rear of 27-33 Grove Road, Tring, Hertfordshire HP23 5HA in accordance with the terms of the application, Ref 4/01801/16/FUL, dated 29 June 2016, subject to the conditions set out in the attached schedule.

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 is the effect of the proposed development on the character and appearance of the area.

Reasons

4. The appeal site would mainly comprise the rear gardens of Nos 27 to 33 Grove Road and would be accessed between No 27 and No 29 Grove Road. The surrounding area is characterised by a mix of detached and semi-detached dwellings of a variety of styles.
5. A scheme for the same site and including the erection of six dwellings on the appeal site was allowed in December 2016¹ where the Inspector found the 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 Inspector in December 2016 noted the heights of the proposed properties, whilst not strictly two storey, would match other similar modern housing nearby and the spacing between dwellings would be similar to the prevailing

¹ Appeal Ref: APP/A1910/W/16/3156127

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. Thus, the Inspector in December 2016 concluded that the development proposed at that time would not have an adverse effect on the character and appearance of the area.

6. I am not aware of any significant developments nearby which have taken place since December 2016 which have altered the character or appearance of the area in the vicinity of the appeal site in any way. Furthermore, there have been no changes to the development plan since that decision. I therefore attach significant weight to the previous appeal decision relating to this site and the fall back position provided by the approved scheme.
7. The scheme before me is very similar to the scheme which formed the subject of the December 2016 decision. The main differences are that the approved scheme is for six dwellings whereas the appeal scheme would involve the erection of five dwellings and would be a lower density development with less overall built mass, more space around the proposed buildings and larger gardens. The proposed dwellings would not be as tall as the approved dwellings.
8. Thus, in my view the proposed scheme is of a lesser scale of development than the approved scheme. Therefore, the proposed scheme would better blend into its setting and would not be as visually prominent as the approved scheme. Furthermore, the appeal proposal would provide a relatively spacious development with opportunities for landscaping along the site and plot boundaries which would further soften its visual impact.
9. That said, consistent with the Inspector's findings in December 2016 and given the fall back position I find the proposed development would not harm the character and appearance of the area. The proposed development would therefore accord with the development plan, specifically saved Policies CS11 and CS12 of the Dacorum Borough Local Plan 1991-2011(2004) which aim to ensure good design and that new development does not harm the character of an area. For the same reasons the proposed development would accord with the aims of the Area Based Policies Development in Residential Areas Tring Supplementary Planning Guidance (2004).

Other Matters

10. I have noted the concerns raised by interested parties including the effect of the proposed development on parking, traffic, highway safety, sewage and drainage and biodiversity. However, all of these matters were considered in detail in the December 2016 appeal decision and given the fall back position of the approved scheme and that the appeal proposal is very similar I have not reconsidered these matters in detail in this decision.

Conditions

11. The conditions I have imposed are broadly the same as those imposed on the December 2016 decision except where I have adjusted them to reflect the specific details of the appeal scheme and had regard to the conditions suggested by the Council.
12. I have imposed a condition specifying the approved plans and documents as this provides certainty. Conditions requiring tree protections measures,

- landscaping, materials and boundary treatments to be agreed are necessary to protect the trees and safeguard the character and appearance of the area.
13. Furthermore, as requested by the Council's contaminated land officer due to potentially contaminative former land uses nearby a condition is necessary to ensure the site is appropriately investigated for such and appropriate actions undertaken thereafter to ensure the safety of future occupiers. Moreover, conditions are also necessary to ensure appropriate parking provision and visibility in the interests of highway safety.
 14. A condition is also necessary to ensure the recommendations of the ecological survey are carried out, in the interests of biodiversity. To safeguard the living conditions of neighbouring residents a condition to ensure windows facing neighbouring plots are fitted with obscured glass is also necessary, for the same reasons a condition requiring a construction management plan is also necessary.
 15. It has not been demonstrated and thus I do not consider that exceptional circumstances exist to justify the removal of all permitted development rights for the proposed dwellings. However, given the proximity of neighbouring residents I consider that restricting roof extensions is necessary and justified in this case. Furthermore, to ensure the garages are used for parking is also justified in the interests of highway safety. Thus, I have imposed conditions which remove permitted development rights for roof extensions and the conversion of garages to living accommodation.
 16. Finally, as was imposed on the scheme approved in December 2016, although not on the Council's list of suggested conditions and given it was a specific concern raised by interested parties a condition is reasonable and necessary to ensure appropriate site drainage in the interests of safeguarding the water environment and the living conditions of neighbouring residents.

Conclusion

17. For the reasons set out above, having had regard to all other matters raised, the appeal is allowed.

L Fleming
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: Site Plan Drawing No BBH/005/PL/08; Plots 1 & 2 Plans and Elevations Drawing No BBH/005/PL/09; Plots 3 & 4 Plans and Elevations Drawing No BBH/005/PL/10; Plot 5 Plans and Elevations Drawing No BBH/005/PL/11; Site Sections and Street Scenes Drawing No BBH/005/PL/12; Site Survey Drawing No K1215-T; Landscape Proposal Drawing No 2258-11-01; Landscape Presentation Plan Drawing No 2258-11-02; Bat Mitigation and Enhancement Strategy (Arbtech) dated 22 July 2016; Ecological Assessment (Arbtech) dated 24 March 2016 and Design and Access Statement.
- 3) 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.
- 4) 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;

The approved landscape works shall be carried out prior to the first occupation of the development hereby permitted. The plans and particulars submitted shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting and 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. If within a period of five years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), another tree of the same species and size as that originally planted shall be planted at the same place in the next planting season. The development shall be carried out in accordance with all the approved details.

- 5) 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 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.

All remediation or protection measures identified in the Remediation Statement 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.

- 6) 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.
- 7) 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.
- 8) Prior to first occupation of the dwellings hereby approved, 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; the bedroom window at first floor level in the south-eastern elevation of Plot 1; along with the other windows shown with their lower sections fitted with obscured glazing on Drawing Numbers BBH/005/PL/09, 10 and 11 respectively hereby permitted shall be permanently fitted with obscured glass.

- 9) The proposed car parking spaces shall have measurements of 2.4m x 4.8m min. and be located on land within the ownership of the applicant. Such spaces shall be maintained as a permanent ancillary to the development and shall be paved and used for no other purpose.
- 10) 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.
- 11) Prior to first occupation a visibility splay shall be provided in full accordance with the details indicated on the approved plan Site Plan Drawing No BBH/005/PL/08. The splay shall thereafter be maintained at all times free from any obstruction between 600mm and 2m above the level of the adjacent highway carriageway.
- 12) 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.
- 13) Prior to the commencement of development, the further bat survey work identified in the Arbtech Worse Case Scenario Bat Mitigation Strategy shall be undertaken and the reports submitted to the Local Planning Authority for approval. The development hereby permitted shall be undertaken in accordance with the mitigation and recommendations identified within the Arbtech Ecology Assessment and the Worse Case Scenario Bat Mitigation Strategy.
- 14) No development shall 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

END OF SCHEDULE