
Appeal Decision

Site visit made on 23 January 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 21 February 2017

Appeal Ref: APP/J1915/W/16/3163330

Land rear of 138 Hertingfordbury Road, Hertford SG14 2AL.

- 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 C Johnson (Willowmead Construction Limited) against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2009/FUL, dated 24 August 2016, was refused by notice dated 28 October 2016.
 - The development proposed is a new detached dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are, firstly, the effect of the development on the character and appearance of the area and, secondly, the living conditions of neighbouring occupiers with particular regards to privacy and outlook.

Reasons

Character and appearance

3. The appeal site is located to the rear of No 138, a modest semi-detached property positioned a short distance north of the A414 Hertingfordbury Road and accessed by a small cul-de-sac of the same name. The site rises up sharply away from the host property with a narrow rear garden comprising a series of plateaus accessed by sets of steps. As a result of the topography the site commands far reaching views over the top of those dwellings fronting Hertingfordbury Road.
 4. The surrounding area is residential and characterised by pairs of traditional semi-detached dwellings and small groups of terraces which are generally of a similar scale and share a common relationship with the street. There is however considerable variety in relation to external appearance and facing materials. Immediately east in a backland location is a modern three-storey residential development containing three townhouses.
 5. The proposed dwelling would be sited towards the top of the plot and would be accessed by a private driveway from Valeside following the removal of the existing garage. The dwelling would be split into various levels with the staggered south facing and northern elevations rising to 2.5 and 1.5 storeys respectively.
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6. Rather than the principle of a dwelling in this location, it is the detailed design with which the Council takes issue. Whilst the design has much to commend it, I share the Council's concerns on a number of matters. The dwelling with its strong vertical emphasis would be decidedly different from anything else in the vicinity. This incongruence would be exacerbated by the roof form which would be particularly uncharacteristic and also the large, featureless side elevation facing the recently completed townhouse development.
7. I note the appellant's argument that the dwelling would be largely concealed. However, as I saw on my site visit, due to its elevated position it would in fact be visible in gaps between dwellings from Hertingfordbury Road particularly in the winter months. In any event, the argument that the dwelling would be out of public view is not a good one in principle, as it could be oft-repeated to the overall detriment of the character and appearance of the area.
8. In my view as a direct consequence of its anomalous proportions, roof design, and elevated position the dwelling would have a stark visual appearance. Based on the foregoing, I conclude that the development would conflict with Policies HSG7 and ENV1 of the "*East Hers Local Plan Second Review 2007*" (the LP). Collectively these seek new development to adhere to the highest standards of design which reflects local distinctiveness and relates to the massing and height of adjacent buildings.

Living conditions

9. Although no windows would face 140 Hertingfordbury Road or its rear garden, there is little doubt that the dwelling would be highly conspicuous in rearward views from habitable room windows given the relative differences in ground levels.
10. I accept that the development would be in a built-up location where some intrusion into views is inevitable. However, the side wall and front elevation of the dwelling would loom large close to the shared boundary. Whilst the landscaping along the boundary would ameliorate the impact to some extent, large portions of bland masonry would still be visible from the rear garden. Although the Council do not allege any loss of light, the dwelling would inevitably result in an oppressive outlook from the rear garden where it would appear as an overbearing and dominant structure unlike any other in view. This would significantly diminish the enjoyment of the garden for the occupiers of No 140.
11. Whilst I understand the appellant's point that the occupiers of No 140 have not themselves objected, the "*National Planning Policy Framework*" (the Framework) requires me to protect the amenity of all future and existing occupants of land and buildings.
12. The development would rob No 138 of most of its garden. Accordingly, it is paramount that what remains is useable and private. To this end, the site topography would result in direct overlooking from the upper floor, habitable room windows into the residual garden of No 138. The appellant alleges that the level of overlooking would be similar to that which exists elsewhere in the vicinity. However, whilst I noted the proximity of the townhouses to the rear of Nos 132-134 when I conducted my site visit, I was unable to ascertain the level of intervening landscaping between the buildings. Consequently, there is insufficient evidence before me to demonstrate that the level of overlooking is

comparable to the appeal scheme. That being the case I have assessed the scheme before me purely on its own merits.

13. The trees to which the Council's Officer Report refers appear to have been felled. Accordingly, I find no evidence to suggest future occupiers of the development would experience an outlook dominated by trees.
14. On the second main issue I therefore conclude that the development would unacceptably harm the living conditions of the occupiers of Nos 138 and 140 with particular regards to privacy and outlook respectively. This would conflict with Policies HSG7 and ENV1 of the LP which state that new development should not appear obtrusive and respect the amenity of neighbouring occupiers. The proposal would also conflict with advice in paragraph 17 of the Framework.

Conclusion

15. For the reasons given above, I conclude that the appeal should be dismissed.

D. M. Young

Inspector