
Appeal Decision

Site visit made on 16 May 2017

by Graham Wyatt BA (Hons) MRTPI

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

Decision date: 5th June 2017

Appeal Ref: APP/J1915/W/17/3167694
25 Red House Close, Ware SG12 9NW

- 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 Ryan Barker against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/2427/FUL, dated 27 October 2016, was refused by notice dated 8 December 2016.
 - The development proposed is a residential development (1 No. Dwelling).
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Decision

1. The appeal is allowed and planning permission is granted for a residential development (1 No. Dwelling) at 25 Red House Close, Ware SG12 9NW in accordance with the terms of the application, Ref 3/16/2427/FUL, dated 27 October 2016 subject to the conditions on the attached schedule.

Main Issues

2. The main issues in this appeal are the effect of the development:
 - On the character and appearance of the area;
 - On the living conditions of adjoining occupiers with particular regard to overlooking and outlook.

Reasons

Character and Appearance

3. The appeal site forms part of the side garden of No. 25. The site lies adjacent to a public footpath that turns at 90 degrees to the side and front of the proposed dwelling and links Red House Close to London Road. Red House Close is an established residential area consisting of 2 storey dwellings that are mainly terraces and semi-detached properties. Red House Close forks to the right as one travels towards the appeal site. This part of the Close has wide grass verges and communal parking areas which gives it a spacious and open character. This is in contrast to the appeal site, which is more enclosed due to the proximity of buildings at the end of the cul de sac.
4. The proposed dwelling would provide living accommodation on the ground floor with two bedrooms on the first floor. The development proposes a mixture of materials to reflect existing properties in the immediate area, such as timber cladding and brickwork. The building has been specifically designed to take account of the site's constraints and an asymmetrical roof is incorporated into

the design. This reduces the overall massing and height of the building in comparison to surrounding properties and gives the building an appearance more akin to a single storey dwelling. There is no requirement for the new development to be similar in style to its neighbours. The proposal presents an attractive and innovative design solution that would sit comfortably on its site and successfully integrate with its host environment.

5. The site lies to the side of No. 25 and as a result of existing development the building is effectively screened and would not be visually dominant in the street scene. The development would provide adequate amenity space for each dwelling which would be similar to other gardens in the immediate area.
6. The proposed dwelling would be sited in the corner of the garden with two elevations facing the footpath. Despite the presence of close boarded fencing the footpath at the appeal site is wider at this part and has a more open character. The proposed dwelling would be sited close to the footpath but, taking account of the design and height of the building, I do not consider that its openness would be unduly diminished or that the dwelling would appear visually intrusive.
7. Although the shared driveway would result in the grassed area to the front of No. 25 being removed, landscaped areas are proposed to soften the impact of the driveway and parking areas. Consequently, the appearance, layout and overall scale of the building, would not represent a cramped form of development that would be out of character with the surrounding area.
8. On the first main issue I conclude that the proposal would not have a harmful effect on the character and appearance of the area. The proposal would therefore be in compliance with Policies ENV1 and HSG7 of the East Herts Local Plan Second Review (April 2007) which seek, among other things, to ensure that development proposals are of a high standard of design and layout that reflects local distinctiveness.

Living Conditions

9. The site is separated from the rear boundary of No's 27 and 29 by the public footpath. These properties have their living rooms facing onto their relatively small rear gardens. A single window in the elevation facing these properties serves a bathroom and would be obscurely glazed. Consequently, there would be no loss of privacy to the rear gardens and living areas of 27 and 29. It is appreciated that the outlook from these properties would change. However, there is no right to a view across third party land. Taking account of the limited height of the proposed dwelling, the degree of separation as a result of the footpath and its location northeast of 27 and 29, I do not consider that there would be an overbearing impact or a material loss of sun or daylight such as to unacceptably diminish the amenity that the occupiers of these houses currently enjoy.
10. I now turn to the impact on the living conditions of the occupiers of the terraced houses to the rear of the site along London Road. The proposed dwelling would have a large bedroom window in its rear elevation facing towards the rear garden of 118 London Road. The rear elevation would be some 6m from the boundary with this property and the window in question would be at the corner of the building nearest the footpath. During my site visit I noted an outbuilding and landscaping on the boundary of No. 118 and

that the property itself is angled towards the north-west and away from the site of the proposed development. Bearing all these points in mind I am satisfied that the privacy of the adjoining occupiers would not be materially affected.

11. On the second main issue I therefore conclude that the proposal would not have an unacceptably harmful effect on the living conditions of adjoining occupiers. The proposal would therefore be in compliance with Policies ENV1 and HSG7 of the East Herts Local Plan Second Review (April 2007) which seek, among other things, to ensure that development proposals respect the amenity of adjoining occupiers. I note that an objector has raised the issue of Human Rights, including under Article 1 of the First Protocol. However, for the reasons I have given I do not consider that there would be harm to the living conditions of adjoining residential occupiers and so there would be no interference with the right to the peaceful enjoyment of their possessions.

Other Matters

12. Two spaces are proposed for each dwelling. Although the Local Highway Authority did not respond to the Council's consultation, they did not object to a previous scheme for a similar development. Furthermore, I have seen no evidence that the proposal would materially compromise road or pedestrian safety.
13. I note that some objectors question the sustainability of the proposed development. However, Paragraph 14 of the National Planning Policy Framework (the Framework) makes it clear that the presumption in favour of sustainable development means that development proposals according with the development plan should be approved without delay. This is the case here. Whilst the East Herts Local Plan Second Review was adopted prior to the Framework, the policies relevant to this appeal are consistent with this national policy and no-one has suggested otherwise.

Conditions

14. The Council has suggested a number of conditions if I am minded to allow the appeal. I have reworded them where necessary in the interests of concision and enforceability. Taking account of the nature of the site and its residential surroundings it is necessary to restrict the hours of construction. Although it was not suggested by the council, in order to protect the privacy of No's 27 and 29 the bathroom window on the south-western elevation should be fitted with obscure glass and fixed shut. To ensure a satisfactory appearance, details of both hard and soft landscaping, including fencing, and samples of materials are required. In the interests of highway safety a condition is needed to ensure that the parking areas are retained at the site. The approved plans should be specified to provide certainty.

Conclusion

15. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) No development shall commence until samples 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 samples.
- 3) The development hereby permitted shall be carried out in accordance with the following approved plans: 16-009-P01, 16-009-P02, 16-009-P03, 16-009-P04, 16-009-P05, 16-009-P06, 16-009-P07, 16-009-P08, 16-009-P09 and 16-009-P10
- 4) Demolition or construction works shall take place only between 0800 to 1800 on Mondays to Fridays, and between 0800 and 1330 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 5) No development shall commence until details of boundary treatments, both hard and soft landscape works and a timetable for implementation have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details and timetable.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in accordance with the timetable approved in condition 5 and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 7) The dwelling shall not be occupied until space has been laid out within the site in accordance with drawing no. P16-009-P07 for 4 cars to be parked and that space shall thereafter be kept available at all times for the parking of vehicles.
- 8) The dwelling hereby permitted shall not be occupied until the window on the south-west elevation has been fitted with obscured glazing, and no part of that window that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed the obscured glazing shall be retained thereafter.