

Appeal Decision

Site visit carried out on 15 May 2017

by Zoe Raygen Dip URP MRTPI

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

Decision date: 16 June 2017

Appeal Ref: APP/Y1945/W/16/3165400

177-187 Gammons Lane, Watford WD24 5JE

- 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 Peter Rice Developments Ltd., Raymond Rice Developments Ltd. and Rice Brothers Builders Ltd. against the decision of Watford Borough Council.
 - The application Ref 16/00946/FUL, dated 4 July 2016, was refused by notice dated 12 October 2016.
 - The development proposed is residential development for five houses, comprising 2 x three bed and 3 x four bed units with associated car parking, access and landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for residential development for five houses, comprising 2 x three bed and 3 x four bed units with associated car parking, access and landscaping at 177-187 Gammons Lane, Watford WD24 5JE in accordance with the terms of the application, Ref 16/00946/FUL, dated 4 July 2016 subject to the conditions set out in the schedule attached to this decision notice.

Application for Costs

2. An application for costs was made by Peter Rice Developments Ltd., Raymond Rice Developments Ltd. and Rice Brothers Builders Ltd against Watford Borough Council. This application is the subject of a separate decision.

Main Issue

3. The main issues are the effect of the proposal on highway safety and its effect on the character and appearance of the area.

Reasons

Highway safety

4. The appeal site comprises the end of the long rear gardens of 177-187 Gammons Lane. These back onto properties in Leaford Crescent. It is proposed to use the existing vehicular access between Nos 70 and 76 Leaford Crescent which currently provides access off Leaford Crescent to domestic garages and some garages to the rear of Nos 177-187. Visibility at the junction is good to the south east. However, to the north-west is a high hedge forming the boundary to No 76 Leaford Crescent which extends close to the highway.
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5. The appellants submit in their Transport Statement 2016 (TS) that a visibility splay of 2.4 x 18m could be achieved to the north-west that would be in accordance with guidance within Manual for Streets 2007 (MfS) for roads with traffic travelling at 15-20mph.
6. When the Highway Authority (HA) gave initial pre-application advice for the appeal scheme, it considered that the layout of Leaford Crescent and its association with local residential traffic would be likely to restrict the actual speed of traffic approaching the access to 20-25mph. At that time, the speed limit on the street was 30mph. This has since been reduced to 20mph.
7. Notwithstanding that reduction in the speed limit here, local residents refer to speeding cars in the vicinity of the access. Whilst there is no evidence, such as a speed survey to provide an accurate record of traffic speeds in the vicinity of the appeal site, I consider it reasonable to assume that the reduction in the speed limit together with the current road alignment would act as a control on maximum traffic speed, the evidence that is before me suggesting speeds in the region of 20mph. This was borne out at my site visit, when I observed most drivers being reasonably respectful of conditions. I also saw that parked cars acted as a further speed restraint in the area. At this speed MfS suggests a visibility splay of 25metres, which would be in accordance with the requirement in the Hertfordshire Highway Design Guide 2010.
8. Residents have supplied photographs which, in their opinion, demonstrate the inadequacies of the proposed visibility splay. However, I cannot be sure that the person pictured in one of the photographs is standing in a position that accurately represents the position of the visibility splay on the road, as demonstrated on the appellant's plan 16110 / SK01, particularly in respect of the end of the visibility splay at the bend in the road.
9. From my observations during the site visit, including exiting the appeal site by car, I found that drivers would not need to significantly encroach onto the highway to see cars approaching from the north-west. Furthermore, the presence of the adjacent high hedge would mean that future occupiers are more likely to approach the junction in their cars with caution. Moreover, the TA predicts that at the AM peak period, the development proposed would be likely to generate only four vehicular movements, and at the PM peak period only three. Such low levels of anticipated car movements together with the existing road geometry and specific conditions at the junction would mean it unlikely, in my view, that the reduced visibility splay would have a material adverse impact on highway safety. In coming to this view I am mindful that *Manual for Streets 2: Wider Application of the Principles 2010 states that based on research... unless there is local evidence to the contrary, a reduction in visibility below the recommended levels will not necessarily be a problem*".
10. Only four personal injury incidents have been reported in the locality since 2010 and these were classified as slight. None of the incidents occurred in the immediate vicinity of the site access or the junction of Leaford Crescent with Gammons Lane. Such a low incident of accidents does not weigh significantly against the proposal.
11. At the time of my site visit there were a number of cars parked on the street. While, I appreciate this represents a snap shot in time, the evidence before me suggests that the situation and conditions I observed were not a one off, but occur at most times of the day. MfS observes that parking within visibility

splays in built up areas is quite common yet it does not appear to create significant problems in practice. While therefore I acknowledge the presence of on street parking, I have already observed that this would be likely to slow down traffic. Therefore, given low traffic speeds I consider that such parking is not likely to cause material harm to safety in this particular instance.

12. I observed that the adjacent high hedge encroaches slightly into the defined visibility splay. While the hedge is not within the control of the appellants it would be open to the HA to take action to ensure it was appropriately maintained.
13. I recognise though that the hedge would limit both the views of drivers emerging from the access of pedestrians on the footway and pedestrians approaching the access from the north-west. The street is located near to two schools and I have no reason to suppose, in this regard, that pedestrians would not use the footway here. However, the restricted visibility would only be from the north-west. There are a limited number of houses in the remainder of the estate to the south east. Accordingly, the number of pedestrians is not likely to be significant at this point. On balance, I am satisfied that this together with the low number of cars using the junction, and their very low speed is sufficient to ensure that the proposal would not be materially harmful to pedestrian safety.
14. I have seen no substantive evidence to suggest that the existing highway is operating at capacity. The limited traffic generated by the additional five dwellings proposed would not result in a material increase over and above existing traffic movements on the network. Furthermore, the proposed 13 parking spaces would be in excess of the Council's requirements of two per dwelling. While seven of these spaces would not be within the curtilage of the individual dwellings I note that, according to the HA, the proposed access road would be private. The spaces would not, therefore, be available for general parking. Moreover, the HA has no objection to the width of the access road or the proposal in general, subject to the imposition of conditions.
15. For the reasons above I conclude, on balance, that the proposal would not be harmful to highway safety. There would, therefore, be no conflict with saved Policies T21 and Policy H9 of the Watford District Plan 2000 (DP) and paragraph 32 of the National Planning Policy Framework (the Framework), which require that developments include adequate provision for access/egress to meet the necessary safety requirements.

Character and appearance

16. Nos 177-187 Gammons Lane comprise a row of two storey houses set in long narrow plots. To the rear of their gardens are mainly two storey properties on Leaford Crescent with the exception of bungalows at Nos 76 and 78. These houses also have lengthy gardens creating a large open area between the two rows of dwellings. The area contains trees and small scale domestic outbuildings, creating a pleasant verdant area. Elestra, a further bungalow, is sited between the two rows of buildings alongside Leaford Crescent.
17. The dwellings sit within character area 18c of the Watford Character Area Study 2011, described as a wider residential area mainly characterised by rows of semi-detached properties of a fairly uniform style and design. The general pattern of development is fairly consistent in terms of plot sizes and building

heights/footprints. I saw this to be fairly representative of the area. As a result the area has an established suburban residential character and appearance.

18. The Framework removes garden land from the definition of previously developed land. This does not equate though to a blanket ban on the development of garden land. Though the proposal is backland development, I note that saved Policy H9 of the Watford District Plan (DP) does not preclude such development provided there is a safe and convenient access for highway users and that it complies with relevant design Policies. I have already found that the proposal would not be materially harmful to highway safety. Moreover, I am advised that the design Policies referred to are no longer relevant. Instead, I have been referred to Policy UD1 of the Watford Local Plan Core Strategy 2006-31 (CS) which also does not preclude backland development. It does, though, require that development respects and enhances the local character, which I saw includes backland development, particularly at Ashwell Place. While the southern part of that development forms an extension to Leaford Crescent, the northern part would be similar to the appeal scheme.
19. The proposal is for the erection of one detached and two pairs of semi-detached houses to the rear of Nos 177-187, essentially creating a new row of dwellings between Gammons Lane and Leaford Crescent. The submitted layout plan shows that the proposed dwellings can be accommodated within narrow plots reflecting those on Gammons Lane. Although they would not be as long as those on Gammons Lane, they would be similar to others in the area and therefore would not be uncharacteristic, thus respecting the open character of the area.
20. The proposal would lead to the removal of a number of trees on the site. However, there would be sufficient space between the proposed and existing properties to ensure that new planting could be accommodated and therefore the verdant nature of the area would not be significantly eroded. An appropriate landscaping scheme for the site could be secured by a condition.
21. Local residents have submitted photo montages in support of their objections. However, the houses proposed would be of a similar scale, bulk and height to the existing semi-detached properties in the area. As a consequence, they would not, in my view, be seen as incongruous or obtrusive when viewed from neighbouring properties, or in the limited glimpses available from public vantage points. I am satisfied, therefore, that the proposal would integrate into the existing layout and would not have an overly cramped appearance.
22. For the reasons above, I conclude that the proposal would not be harmful to the character and appearance of the area. It would, therefore, be in accordance with Policy UD1 of the CS and the Framework which, amongst other things, seeks to ensure that development is of high design quality which respects local character and distinctiveness.

Other Matters

23. The intervening distances between the proposed houses and those on Gammons Lane and Leaford Crescent (to the front of the development including Nos 76 and 78) are well in excess of the recommended minimum separation distances between the rear elevations of new and existing houses within the Council's Residential Design Guide 2014 (RDG). Most also comply

with the recommended distance in the RDG between the upper level windows of the proposed houses and the gardens of neighbouring properties. The exception being units 4 and 5, which would be below the recommended distance towards Nos 177 and 179, although not significantly so. In any event, any overlooking would be towards the rear most part of the gardens of Nos 177 and 179 which would also be open to views from first floor windows of neighbouring properties and so are not wholly private areas. I am satisfied, in this regard, that there would be no material harm.

24. Nos 76 and 78 Leaford Crescent are bungalow properties. Even so, there would be a sufficient distance from the proposed houses to ensure that they would not appear unacceptably overbearing to existing residents or create a feeling of undue enclosure.
25. The first floor side windows of all the homes proposed would serve landings or bathrooms and all are proposed to be obscure glazed to prevent any overlooking to neighbouring properties. This could be secured by means of an appropriately worded condition.
26. The proposal would introduce a two storey house close to the rear boundary of Elestra which is an existing bungalow. Elestra has two windows in its rear elevation. However, according to the Council, the main outlook of Elestra is from windows to the front and side of the property. The proposed house shown as unit 1 would be about four metres from the rear elevation of Elestra. However, the part nearest to Elestra would be single storey and therefore of limited height. The two storey element would be about seven metres away and the roof would slope away from the existing property. While there may, as a consequence, be some loss of light to rear windows, the orientation of Elestra means that the proposed relationship would be unlikely to cause material harm. Furthermore, the intervening distance between the two properties means that the proposal would not be seen as unacceptably overbearing to the existing residents.
27. No 70 Leaford Crescent is a two storey house which has a single storey garage on its side elevation adjacent to the proposed access. Above that, in its side elevation, are two windows. No 76 is a bungalow with windows and a door in its side elevation facing the appeal site. The boundary is formed by a high hedge. The area between Nos 70 and 76 is already in use as an access. While the use of the access would increase, its use by the occupants of five dwellings would not be significant. This in conjunction with the generous distance between the proposed road and the properties either side means that its use would not cause unacceptable levels of noise and disturbance to neighbouring properties.
28. In this respect, I have had regard to the particular circumstances relating to the occupier of No 70. However, I have seen no medical evidence that would lead me to conclude that levels of noise and disturbance would be particularly harmful to the living conditions of the resident.
29. I have seen no substantive evidence either, to suggest that the proposal would result in harm to air quality or biodiversity or to demonstrate that the existing sewerage facilities would be inadequate to accommodate the development proposed. Furthermore, I have not been directed to any independent evidence to demonstrate that local facilities such as doctors or schools would be unable to accommodate future residents of the proposal.

30. I have considered residents' argument that the current proposal would set a precedent for similar development on the adjacent land to the south east. However, each application and appeal must be considered on its own individual merits. I have concluded that the current proposal would be acceptable on the basis of five dwellings only, particularly in respect of the proposed access in terms of highway safety and effect on residents living conditions. Any alternative application involving an increase in the number of dwellings would need to be considered by the Council on its own particular merits.
31. It has been suggested that Watford is already four and a half times more densely populated than other towns in the south east. Whether or not that is the case, I have found that the proposal would not be harmful to the existing open suburban character and appearance of the area within which the appeal site is located nor, indeed, have I found any other harm.

Conditions

32. I have had regard to the various planning conditions that have been suggested by the Council and considered them against the tests in the Framework and the advice in the Planning Practice Guidance and have made such amendments as necessary to comply with those documents. To provide certainty a condition is necessary requiring that the development is carried out in accordance with the approved plans.
33. I have imposed conditions relating to materials, hard and soft landscaping and boundary treatment to protect the character and appearance of the area. Details of tree protection and its implementation are required before work commences on site to protect the trees from development. Conditions regarding refuse storage, and the provision of obscure glazing are necessary to protect residents living conditions. With the agreement of both parties, I have also imposed a condition regarding the hours of construction to protect residents' living conditions.
34. Conditions regarding the provision of the access, garaging and parking together with the allocation of parking are required in the interest of highway safety.
35. I have carefully considered the Council's suggested condition regarding the removal of permitted development rights contained within Schedule 2, Part 1, Classes A, B, C, D, E, F and G Town and Country Planning (General Permitted Development) Order 2015. Paragraph 017 Reference ID: 21a-017-20140306 of the Planning Practice Guidance states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. I have seen no convincing reason for this being an exceptional circumstance for removing permitted development rights and therefore I have not imposed this condition.

Conclusion

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

Zoe Raygen

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: GL8/15/LP01, GL8/15/PL01C, GL8/15/PL02, GL8/15/PL03, GL8/15/PL04, GL8/15/PL05, GL8/15/PL06, GL8/15/PL07, GL8/15/PL08, GL8/15/PL09, GL8/15/PL10, GL8/14/P01, LP/177187GLWH/020 A Topographical Survey Sheet No1 Rev 1
- 3) No development above damp proof course level shall commence until details and samples of the materials to be used for all the external finishes of the development hereby approved, including all external walls, all roofs, doors, windows, fascias, rainwater and foul drainage goods, have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and samples.
- 4) No dwelling shall be occupied until refuse stores for all dwellings and secure and weatherproof cycle storage facilities for units 4 and 5 have been installed in accordance with details that have previously been submitted to, and approved in writing by, the Local Planning Authority. These facilities shall thereafter be retained for the life of the development.
- 5) No development shall commence , including any works of site clearance, until details of tree protection fencing and any special construction methods (e.g. no dig construction) within the root protection area of retained trees both on and off site has been submitted and approved in writing by the Local Planning Authority. The approved details of tree protection shall be implemented on site prior to the commencement of development and retained until the construction of the houses is complete.
- 6) No part of the development shall be occupied until 1.8m high close boarded timber fencing has been installed around and within the site as shown in approved drawing LP/177187GLWH/020 A.
- 7) No part of the development shall be occupied until the hard landscaping has been provided in accordance with the details of the approved drawing LP/177187GLWH/020 A. Provision shall be made to ensure that surface water from the hardstanding within the site shall be intercepted and disposed of within the site only and that no surface water should discharge into the highway.
- 8) The planting of the soft landscaping in accordance with the details of the approved drawing LP/177187GLWH/020 A shall be carried out no later than the first available planting and seeding season after completion of the development. For the purposes of this condition a planting season is the period from 1 October in any one year to 31 March in the next following year. Any trees or plants whether new or existing which within a period of five years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

- 9) No dwelling shall be occupied until the proposed access from Leaford Crescent, as well as the scheme for garaging, parking and manoeuvring indicated on the submitted drawing GL8/15/PL01C (or any subsequent amendment agreed in writing by the Local Planning Authority) has been laid out and made available for use and those garages and areas shall not thereafter be used for any other purpose.
- 10) The three parking spaces at the front of units 4 and 5, as shown on submitted drawing GL8/15/PL01C, shall be allocated for use to the occupiers of those two properties. One property shall be allocated two of the spaces and the other shall be allocated one of the spaces. These allocated spaces shall be made available and retained for use by the occupiers of units 4 and 5.
- 11) The first floor windows in the flank elevations of each house shall be installed and retained at all times with obscure-glazed, and shall be non-opening other than in parts of the windows which are more than 1.7 metres above the floor of the room in which the window is installed.
- 12) No construction works shall commence until details of the existing and proposed ground levels and the finished ground floor levels of the buildings have been submitted to and approved in writing by the Local Planning Authority. The development shall only be constructed in accordance with the approved details.
- 13) Demolition or construction works shall take place only between 0800 and 1800 Monday to Friday and 0800 and 1300 on a Saturday and shall not take place at any time on Sundays or on Bank or Public Holidays.

END OF CONDITIONS