
Appeal Decision

Site visit made on 27 June 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 17 July 2017

Appeal Ref: APP/A1910/W/17/3170787

33 and 35 Green Lane, Bovingdon, Hertfordshire HP3 0JZ

- 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 Bull Homes Ltd against the decision of Dacorum Borough Council.
 - The application Ref 4/00415/16/FUL, dated 17 February 2016, was refused by notice dated 13 October 2016.
 - The development proposed is demolition of existing dwellings and construction of 9 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. For brevity I have used the description of development given on the decision notice in the heading above.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area; and,
 - The living conditions of occupiers of neighbouring dwellings, with particular regard to noise and disturbance, outlook and overlooking.

Reasons

Character and appearance

4. The appeal site comprises two adjacent plots on the southern side of Green Lane. Each plot contains a detached dwelling, set back from the road with a generously proportioned garden to the rear. This section of Green Lane is characterised by dwellings of varying style and form that back on to a large and seemingly unmanaged field.
5. The development comprises the erection of nine dwellings across the two plots. Two pairs of semi-detached dwellings would front Green Lane with a further two pairs of semi-detached dwellings and one detached dwelling in a parallel line towards the rear of the plot. The proposals would represent backland development.

6. The density of the plots would be raised from 6.5 dwellings per hectare (dpha) to 29 dpha. This is within the recommended range of the Council's Local Plan¹. However, in the context of this section of Green Lane, it would represent a significant localised increase in density which would be out of keeping with the immediate locality.
7. The appellant argues that there are higher density developments nearby at Holmfield and Meadowbank Close. These cul-de-sacs are situated some distance from the appeal site, and in each instance the dwellings abut existing built-up areas with a notably tighter development pattern than the area abutting the appeal site. Furthermore, the appellant's evidence indicates that their density is significantly less than that proposed here. As such, I am not satisfied that there is a direct comparison.
8. The rear line of dwellings would be isolated and unrelated to the Green Lane frontage. The appellant states that the development's ridgelines would not be taller than that of No 37. However, the elevations and topographic survey indicate that No 37 is on higher land and its overall height is notably less than the 9.4 metres quoted for the proposed dwellings. Furthermore, the ground rises slightly towards the rear of the appeal site and five dwellings of some 9.4 metres height in this location would be highly prominent. Accordingly I conclude that the bulk, massing and scale of these dwellings would introduce significant structures behind the Green Lane frontage which would be alien and uncharacteristic.
9. Furthermore, the stretch of rear amenity space along this section of Green Lane is a visual buffer between the field and the adjacent building pattern. The development would shift the building pattern closer to the field and also diminish the openness and inter-visibility of the remaining undeveloped gardens on either side. I appreciate that the aforementioned cul-de-sacs, and Louise Walk have building patterns that give depth to development behind Green Lane and there are dwellings that are closer to the field than proposed here. However, those developments are not located within a series of contiguous rear gardens as with this appeal. As such, this does not alter my reasoning.
10. The appellant argues that boundary treatments could provide a soft field edge. However, given the orientation of the proposed dwellings and the depth of the proposed gardens it is likely that there would be pressure to remove any boundary treatments that were tall enough to provide a screen, as they would cause overshadowing. I am not satisfied that this would be adequate mitigation.
11. In addition, the evidence before me indicates that the front to rear relationship between the development and No 37, is less than the Council guidelines. I also note that the dwellings forming the frontage would be forward of the existing dwellings, and in the case of No 37, would project significantly forward of No 37.
12. In the light of the above, I conclude that the development would appear cramped within the site and would be incongruous with the established and underlying building pattern. This would be to the detriment of the character and appearance of the area. The development would therefore be contrary to

¹ Dacorum Borough Local Plan, adopted April 2004

Policy CS10 of the Core Strategy² (CS) which requires development to respect defined countryside borders and reinforce the existing soft edges of town and villages, amongst other considerations, and CS Policy CS11 which requires development to respect the typical density intended in an area and enhance spaces between buildings and general character. It would also be contrary to the design aims of CS Policy CS12.

Living conditions

13. The development's sole parking area would be located between the two lines of dwellings. This would introduce frontage activity into the rear amenity area of dwellings fronting Green Lane.
14. I disagree with the appellant that the noise and disturbance generated would be comparable to that found in existing residential areas. The particular character of residential areas encompasses a broad spectrum of conditions. However, the development's parking area, which would serve all nine dwellings, would have a distinct highway function and character. Whilst perhaps not out of place in a dense urban environment, that level of activity would be incongruous in this quiet amenity space where residents can expect a degree of separation from the noise associated with the comings and goings of vehicles and their occupants.
15. Field survey results in the noise report³ indicate there is an average night sound loudness level of 33.6dB LAeq,8hr and LAMAX of 45.5 dB behind the Green Lane frontage. Predicted noise levels from vehicle movements at first floor height for Nos 31 and 37 would range between 40 and 44dB LAeq,1hr with LAMAX levels of between 63 and 67dB. Whilst I appreciate that these units of measurement are not directly comparable, and the field survey results did not measure existing noise at the facades of Nos 31 and 37, the report gives a useful indication of the magnitude of the likely increase in noise levels.
16. The report concludes that maximum noise levels at night are likely to exceed World Health Organisation (WHO) guidelines, but states that as noise occurrences of this loudness would be infrequent and short-lived, they would be unlikely to cause significant disturbance to occupiers of neighbouring dwellings. However, the annoyance of night-time sound is likely to be related as much to its erratic occurrence as to its loudness. Furthermore, given the degree of likely increase of both average and maximum noise levels, I am not satisfied this would be acceptable for residents more used to a quiet semi-rural outlook at the rear of their dwellings. As such I conclude it would have a significant effect on their living conditions, irrespective of the WHO thresholds.
17. The appellant argues that acoustic fencing could further mitigate the effects of noise and disturbance generated by the development. However, if fencing higher than the 1.8 metres included in the modelling is needed to mitigate the effects of the development, this, to my mind, weighs against the proposals. In any case, it would need to be significantly higher than 1.8 metres to reduce noise levels at the first floor facades of Nos 31 and 37 which would be incongruous in a garden setting.

² Dacorum Borough Council, Core Strategy, adopted 2013

³ Sharp Gayler, 23 February 2017

18. With regard to overlooking, the appellant argues that strategic tree planting would provide privacy for occupiers of Nos 31 and 37. However, although there are trees shown on the site plan adjacent to the parking areas, it would take some years before they were tall or broad enough to screen overlooking from the development. Furthermore, trees cannot be presumed to exist in perpetuity and consequently I am not satisfied that tree planting would mitigate the loss of privacy for occupiers of Nos 31 and 37.
19. With regard to outlook, I have noted above that the development would be considerably taller than existing dwellings in the vicinity. The rear line of the development would significantly encroach into the outlook of occupiers of both Nos 31 and 37, and would have a moderate enclosing and overbearing effect. Given the separation distances I am not satisfied that this would be sufficient to warrant dismissal of the appeal in the absence of other concerns, but it reinforces my conclusions above that the proposals would represent overdevelopment of the plot.
20. As such, I conclude that there would be significant adverse effects on the living conditions of occupiers of Nos 31 and 37, with respect to noise and disturbance, privacy and outlook. This would be contrary to CS Policy CS12 which expects development to avoid visual intrusion, loss of sunlight and daylight, loss of privacy and disturbance, and guidance given in LP Appendix 3.

Planning balance

21. The appellant argues that in 2011 and 2012 the Council did not deliver sufficient housing sites to meet the stated need. However, there is no evidence before me to indicate that the Council has a current housing supply shortfall, or that I should not give the policies cited in the reasons for refusal full weight.
22. In any case, even if the Council was unable to demonstrate sufficient housing land supply, and the policies were not given full weight, Paragraph 14 of the Framework states that permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies in the Framework taken as a whole.
23. I appreciate that this development would make a minor contribution to windfall sites. However, the adverse impacts identified above would significantly and demonstrably outweigh that limited benefit.

Conclusion

24. For the reasons given above and taking all matters into account, I conclude that the development would be contrary to the relevant policies of the Council's Local Plan and Core Strategy, and that therefore the appeal should be dismissed.

Amanda Blicq

INSPECTOR