



Appeal Decision

Site visit made on 23 July 2019

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 August 2019

Appeal Ref: APP/N1920/W/19/3228352

21 Neville Close, Potters Bar EN6 2AG

- 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 Ms Jo Hanslip (Urbanissta Ltd) against the decision of Hertsmere Borough Council.
 - The application Ref 18/1446/FUL, dated 18 July 2018, was refused by notice dated 12 November 2018.
 - The development proposed is the erection of a three bedroom dwelling house and single storey element with off-street parking, refuse storage, landscaping and ancillary works.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a three bedroom dwelling house and single storey element with off-street parking, refuse storage, landscaping and ancillary works at 21 Neville Close, Potters Bar EN6 2AG in accordance with the terms of the application, Ref 18/1446/FUL, dated 18 July 2018, subject to the conditions set out in the Schedule at the end of this decision.

Procedural Matters

2. My site visit was scheduled as an access required site visit, although I was unable to proceed on that basis. However, I was able to consider the main issue based on seeing relevant parts of the site from public areas and hence the site visit was carried out on an unaccompanied basis.
3. The name of the appellant set out above is taken from the application form. Part A of the appeal form gives a different appellant name, but from the same company. As such, I have proceeded on the basis that the company is the appellant.
4. The description of development in the heading and formal decision above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
5. As part of the appeal, the appellants have included an alternative car parking plan (numbered E18-042-121) that was not submitted to the local planning authority (LPA) as part of the planning application. This drawing shows alternative parking arrangements incorporating a vehicle turntable. The appeal

process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the LPA, and on which interested people's views were sought. The inclusion of a vehicle turntable is a substantial difference to the proposed development. Consequently, parties may be prejudiced or caused injustice by my consideration of this plan and I have not taken it into account in the determination of this appeal.

6. The National Planning Policy Framework (the Framework) was revised on 19 February 2019 and this post-dates the Council's refusal notice. I have considered the Framework as part of the determination of this appeal.

Main Issue

7. The main issue is the effect of the development on the character and appearance of the area.

Reasons

8. The appeal site is open, overgrown land to the rear of the back garden to 21 Neville Close (No 21). It has a frontage onto Laurel Avenue, a residential road characterised by 2 storey high, pitched roof houses set in short terraces of 3 or 4 units. The site forms part of the space between No 21 and the neighbouring property 10 Laurel Avenue (No 10).
9. The proposed dwelling would face the road and follow the front building line set by No 10 and the adjoining terrace. It would be on the outside of the bend and would be seen from a significant distance in either direction along Laurel Avenue.
10. The proposed dwelling house would have matching eaves height and be of similar width to nearby Laurel Avenue properties. Furthermore, the proposed 2 storey bay window and porch hood would follow defining characteristics of the street scene. Ridge heights vary along Laurel Avenue, stepping up as land levels rise around the bend in the road. Consequently, the proposed dwelling would not be markedly out of character by reason of its slightly lower ridge height compared to the adjacent terrace. A front first floor window would be inconsistent in size compared to corresponding windows in nearby properties, but this would be a minor difference in appearance. By reason of its comparable scale and incorporation of similar architectural features, the proposed dwelling would appear harmonious with other buildings along Laurel Avenue.
11. Whilst it would not follow the prevalent terrace form of housing, the proposed detached dwelling would be near and in line with No 10. It would be alongside and seen with the adjacent terrace. Consequently, the proposed dwelling would appear in keeping with the character of the area despite being detached.
12. Whilst the proposed parking area would lend itself more to parallel parking it would be similar in appearance to those seen to the front of most other properties in the vicinity. Furthermore, on-street parallel parking is allowed directly in front of the appeal site and along significant lengths of Laurel Avenue. As such, the proposed parking area and cars parked on it would be in keeping with the street scene.

13. The proposed house would be off-set from the site boundaries and its relationship with No 10 reflects the narrow gaps between terraced blocks on Laurel Avenue. Its back garden would be shorter than most others in the area, but this would not be readily apparent from public viewpoints. Also, the overall plot is markedly larger than the footprint of the house and therefore of a size that would avoid the proposed dwelling appearing cramped.
14. The proposal would result in the loss of openness of the appeal site and partially obstruct views to trees in adjoining back gardens. However, the rear garden of No 21 would remain undeveloped and so a degree of openness and some views would be retained. The tree on the grass verge lies outside the appeal site and would not be significantly affected by the proposal. No vegetation that contributes positively to the area lies on the appeal site. Consequently, the proposal would not result in significant harm to the character of the area by virtue of loss of openness or greenery.
15. I have been provided with 2 appeal decisions¹ relating to the appeal site, both of which were dismissed partly on grounds relating to harm to the character and appearance of the area. Both appeals considered schemes for 2 houses, rather than the single house currently being proposed. Furthermore, the current appeal relates to a building that would be markedly smaller in scale and of a different design compared to the previous schemes. For these reasons, it would not be inconsistent with those decisions to arrive at a different conclusion in respect of the main issue with this appeal.
16. For the reasons outlined above, I conclude that the development would not be harmful to the character and appearance of the area. Consequently, and in this regard, it would accord with Policy CS22 of the adopted Hertsmere Local Plan Development Plan Document Core Strategy 2013, policy SADM30 of the adopted Hertsmere Local Plan Site Allocations and Development Management Policies Plan 2016 and the Framework, all of which aim, amongst other things, to protect or enhance the character and appearance of the area and to provide attractive environments.

Other matters

17. Concerns have been raised over the impact of the proposed development on highway safety and emergency vehicle access particularly during construction. However, the proposed dwelling would only generate a minor increase in traffic movements, and I have no substantive evidence that demonstrates this would result in harm to highway safety. A single dwelling would not lead to significant amounts of construction traffic and any increase would be for a temporary period. As such, it is unlikely that vehicles associated with the construction of the development would obstruct emergency and other vehicles.
18. The proposed house would not significantly project beyond the front and rear of No 10 and so whilst it would lead to additional overshadowing of small windows in the flank wall, the proposal would not affect the neighbour's main windows. Loss of light to No 10's back garden would be limited to only small periods during the day. The rear windows of the proposed house would face down rather than directly toward the common boundary, thereby avoiding unacceptable overlooking. Furthermore, from the evidence before me, I have

¹ Appeal reference nos. APP/N1920/W/15/3130389 and APP/N1920/W/16/3157937

no reason to conclude the proposed development would result in a level of residential activity that would cause significant noise, disturbance and loss of tranquillity. For these reasons, the proposed development would not cause unacceptable harm to the living conditions of the occupiers of No 10 or any other property in Laurel Avenue.

19. The length of the back garden and screening secured through a planning condition would prevent a significant loss of privacy of the occupiers of the properties to the rear. Compared to the schemes dismissed under the previous appeals, the proposed building would be lower and further away from No 21. Separation distances would help avoid unacceptable loss of light to, or outlook from, No 21 or any other properties on Neville Close. Consequently, the proposal would appropriately safeguard the living conditions of occupiers of Neville Close properties.
20. I note concerns over the impact of construction works. The erection of a single dwelling house is unlikely to generate significant nuisance by reason of dust, pollution or mud on the road. Noise concerns could be addressed through a planning condition limiting hours of construction. Any damage caused to property during construction would be a private matter between the parties involved, as would encroachment onto private land.
21. The proposed back garden is of a size to adequately serve future occupiers. Unlike the schemes dismissed under previous appeals, the current proposal is for a single unit, thereby resulting in a larger back garden with greater scope to provide adequate levels of privacy. A planning condition could be imposed requiring landscaping to prevent significant overlooking onto the proposed back garden. Also, the proposal would provide a degree of flexibility as the overall plot is of a size to accommodate extensions and outbuildings in the future.
22. Flood risk and drainage information provided by the appellant indicates the finished floor level would be above ground levels and describes drainage measures to ensure the proposed development would not exacerbate flood risk. Whilst noting other submitted photographs and reports, there is no substantive evidence to demonstrate the measures proposed by the appellant would not satisfactorily address potential flooding and drainage issues. Furthermore, there is no compelling evidence that demonstrates local drainage infrastructure would be unable to accommodate foul and surface water discharged from the proposed development.
23. In the absence of any substantive evidence to dismiss the appeal on any of the above grounds or complaints, the concerns raised do not override or affect my conclusions on the main issue.

Conditions

24. I have considered the planning conditions put forward by the Council in the officer's report and appeal statement, having regard to the tests set out in the Framework. A condition detailing the plans is necessary to ensure the development is carried out in accordance with the approved plans and for the avoidance of doubt. A condition relating to the materials is necessary in order to ensure the satisfactory appearance of the development.
25. A condition relating to surface water drainage is necessary to ensure the development does not exacerbate flood risk. A condition to ensure the finished

- floor level of the dwelling is set above ground levels is necessary for the same reason. However, it is unnecessary to impose a condition relating to ridge and eaves heights as suggested as the scaled plans are adequate in this regard.
26. A condition relating to landscaping is required to ensure the satisfactory appearance of the development and to prevent the proposed dwelling and neighbouring properties from being subject to unacceptable levels of overlooking. A requirement for protective hoarding to the road-side tree is unnecessary and unreasonable as it lies outside the appeal site and the main elements of the proposal would be outside its canopy and root spread.
27. It is unnecessary to impose a condition requiring a construction management plan as construction works will be temporary and of limited scale. However, I have imposed a condition that restricts the hours of construction and associated deliveries, necessary to avoid noise at unsociable hours and to safeguard the living conditions of occupiers of neighbouring properties.
28. Conditions restricting the future use of permitted development rights rarely pass the necessity test. Those suggested by the Council would place extensive restrictions on future alterations to the proposed dwelling and generally are unnecessary to make the proposed development acceptable. However, to prevent significant loss of privacy and harm to the living conditions of the occupiers of neighbouring properties, a condition is necessary that would remove the right to insert windows at second floor level in the rear of the proposed dwelling.
29. Where appropriate, I have amended the wording of the suggested conditions for reasons of precision and to avoid unnecessary pre-commencement conditions.

Conclusion

30. For the reasons given above, and taking into account all other matters raised, I allow the appeal as set out in the formal decision above.

Jonathan Edwards

INSPECTOR

Schedule of Planning Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 21NC/00/101-P2, 21/NC/20/201-P2, 21NC/20/202-P2, 21/NC/20/203-P2, 21NC/20/204-P2, 21NC/20/801-P2, 21NC/20/802-P2, 21NC/20/803-P2, 21NC/20/804-P2, 21NC/20/805-P2.
- 3) Development works of construction and associated deliveries shall be carried out on or to the site only between 08:30 and 18:00 on Monday to Friday, only between 09:30 to 13:00 on Saturdays and not at any time on Sundays or on Bank or Public Holidays.
- 4) The finished internal ground floor level of the dwelling house shall be set a minimum height of 300mm above the highest finished ground level adjacent to the dwelling house.
- 5) No development shall be carried out above ground level until details of the materials to be used in the construction of the external surfaces of the dwelling house 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.
- 6) No development shall be carried out above ground level until a scheme for the on-site storage and regulated discharge of surface water run-off has been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
- 7) No development shall be carried out above ground level before a scheme of landscaping, which shall include details of both hard and soft landscape works and earthworks, has been submitted to, and approved in writing by, the Local Planning Authority. The scheme as approved shall be carried out in the first planting season following the first occupation of the development. Any trees, shrubs or plants that die within a period of five years from the first occupation of the development, or are removed and/or become seriously damaged or diseased in that period, shall be replaced in the first available planting season with others of similar size and species
- 8) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed at second floor level on the rear, north-facing elevation of the dwelling house hereby permitted.