



Appeal Decision

Site visit made on 12 August 2019

by E Symmons BSc (Hons), MSc

an Inspector appointed by the Secretary of State

Decision date: 11 September 2019

Appeal Ref: APP/A1910/W/19/3226278

**Lavender Cottage, Redbourn Road, Hemel Hempstead, Hertfordshire
HP2 7BA**

- 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 Linda Kimmance against the decision of Dacorum Borough Council.
 - The application ref 4/03226/18/FUL, dated 21 December 2018, was refused by notice dated 25 February 2019.
 - The development proposed is demolition of the existing residential dwelling and redevelopment with 4x 2-bed flats and all ancillary works.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Within the submissions reference is made to a previous version of the National Planning Policy Framework¹ (The Framework). This was revised in February 2019 however, the changes are minor, and do not relate to the issues within this appeal, I have had regard to the revised Framework in my decision and I am satisfied this has not prejudiced either party.
3. Saved Appendix 3 of the Dacorum Borough Local Plan² 2004 (Local Plan) refers to Planning Policy Guidance (PPG) Note 24, Planning and Noise, however this document has been archived and replaced by a new PPG on Noise³. I have had no regard to PPG 24 within my decision.
4. The Council acknowledge and apologise for the incorrect reference to pre-application advice within their issued Article 35 Notice. This has been corrected and I have noted the alteration.
5. The Officer Report cites Policy CS11 of the Dacorum Borough Council Core Strategy 2013 (Core Strategy) but not within the Decision Notice. I consider this policy relevant to the appeal and as the appellant has had the opportunity to comment upon this policy, I afford it full weight within my decision.
6. Within their Appeal Statement the Council have made comments regarding the character and appearance of the development. This was in response to the appellant's mention of paragraph 131 of the Framework. The Officer Report

¹ National Planning Policy Framework, February 2019.

² Dacorum Borough Local Plan 1991-2011. Adopted 21 April 2004.

³ Published 6 March 2014. Last updated 22 July 2019.

clearly states that on balance the appearance of the proposal would be in character and I concur with this view. I have therefore not considered harm to character and appearance within my decision.

Main issue

7. The main issue is the effect of the proposal on the living conditions of both future occupiers and neighbouring residents with respect to noise and disturbance

Reasons

8. The appeal property consists of a detached bungalow within a relatively large plot on Redbourn Road, the B487. In common with many other properties along this road, the bungalow is set back and screened from the highway by a substantial front hedge. To the rear there is a garage, adjacent outbuilding and an area of hard standing which is accessed via a driveway to the right hand side of the bungalow. Beyond the garage is a garden with mature boundary hedging and trees. Due to the screening effect of the dwellings, there is less noise within the rear gardens when compared with that heard at the road side. The property is bounded to the left by St Agnells Court and to the right by a detached bungalow, Little Orchard.
9. The proposal would demolish and replace the bungalow with a two-storey building containing four independent, two bedroom flats, two on the ground floor, and two above. The flats would have rear bedrooms with living space to the front. The flats would be served by six parking spaces for both residents and visitors, four to the rear and two at the front. The front parking area, with part of the hedge retained, would be typical of other properties in this location. The rear parking area would be accessed along the existing widened driveway and part of the rear boundary hedge would be removed to construct the bays adjacent to the boundary with Little Orchard.
10. The driveway would sit directly at the side elevation of both right hand flats which would have bedrooms to the rear. Two of the rear parking bays would be outside the bedroom window of the right hand flats. These flats would therefore be particularly sensitive to noise and disturbance from each vehicle movement, including manoeuvres to allow exit in a forward gear. When considered in combination with the front parking area, these flats would have vehicle movements on all three external elevations which would harm their living conditions. The lower flat would be particularly affected.
11. Although vehicles can currently access the rear of the dwelling, and the proposal would replace this use, it would also increase its intensity. This would be due to the increased number of residents which would be possible within four flats, as compared with one bungalow, would potentially lead to much higher numbers of vehicles. It is acknowledged that there are good public transport links in the area which may alleviate the demand for parking however I have no certainty that this would be the case. An increased number of cars used by unrelated and independent residents would be more likely to lead to a greater number of movements and so greater noise and disturbance when compared with a single family unit.
12. Little Orchard currently has vehicle access to the front, side and to some extent to the rear to the garage. They also have vehicle noise and disturbance from

the B487 to the front and from dwellings on either side. However, the difference would be that the current vehicle movements from the appeal property relate to a single residential unit whereas the proposal would introduce four independent units. This increase and the associated vehicle use and parking above that which is currently present would harm the living conditions of this adjacent property.

13. Little Orchard would also experience disturbance within their garden and potentially to their rear habitable rooms. The drive for Little Orchard sits adjacent to that of the appeal property and leads to a rear garage and outbuilding which run along the shared boundary. These buildings would to some extent screen and buffer noise and disturbance arising from the parking area however, the two spaces next to the boundary would extend beyond these structures. The appellant has expressed a willingness to erect acoustic fencing or landscaping along this boundary to minimise any disturbance. This could be ensured by a planning condition however, in the absence of any technical acoustic data, I have no certainty that noise and disturbance could be mitigated in this way.
14. Although the size of the garden would be sufficient to meet the needs of future occupiers, due to the large parking area, and the associated vehicle movements, this area would be subject to noise and disturbance which would harm the quality of the outdoor space. This also weighs against the proposal.
15. Removal of the boundary hedge adjacent to St Agnells Court has potential to allow vehicle noise and disturbance to affect these properties. The appellant has indicated that additional landscaping as shown on drawing PL-001 (Appendix 6) could mitigate any increase noise and disturbance and this could be secured through a condition. However, I have concerns that the proposed planting could decrease the amount of useable garden space available for future occupiers. Although this issue is not determinative it does weigh against the proposal.
16. Due to the position of the proposed parking further into the quieter garden setting when compared with the current arrangement, in combination with the increased number of households on the site, there would be an associated increase in noise and disturbance. This view is supported by a dismissed appeal⁴ cited by the Council which related to a development for nine dwellings with parking to the rear. In this case the Inspector considered that the parking area would have a highway function and character which 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”. Although the proposal before me is for a smaller scale development in an urban area, the rear parking area would have a similar effect due to the number of vehicles it could accommodate.
17. In conclusion, although there is an existing parking area and garage to the rear of this and the neighbouring property, it is likely that the increase in residential density would lead to an associated increase in vehicular use, noise and disturbance over and above that of a single dwelling. As such, the proposal would harm the living conditions of future occupiers and neighbouring residents with respect to noise and disturbance. It would conflict with Saved Appendix 3 of the Local Plan and Policies CS11 and CS12 of the Core Strategy. These

⁴ APP/A1910/W/17/3170787.

policies, together and amongst other matters, seek that development avoids disturbance to dwellings, avoidance of large areas dominated by parking and careful location of parking to minimise noise.

Other Matters

18. Planning permission for a similar development on this site⁵ lapsed in 2010. Although this was also determined under Saved Appendix 3 of the Local Plan, it pre-dates Policy CS12 of the Core Strategy and the Framework. As the policy background has changed since this application was granted, and as Policy CS12 has been adopted and is consistent with the Framework, I am considering this application within the current policy context and on its own merits. The appellant contends that as a fallback position the existing property could be extended under current permitted development rights to form a larger family house which could lead to an associated increase in the number of vehicle movements on the site. There is no evidence before me to suggest that this development would be carried out and, in any case, this would not be comparable to four independent residential units. Additionally, the appellant has also mentioned other nearby developments which have intensified the site use however I do not have the details of these examples and in any case, each proposal must be determined on its own merits and circumstances.
19. The parties disagree on the level of negotiation which was undertaken during determination of the application. However, these are matters which would need to be pursued with the Council. In any event, these matters do not materially affect my consideration of the planning merits of the appeal proposal.
20. The Council cites Appeal APP/A1910/W/18/3211726 to support their planning decision. However, this is not directly relevant, and the site layouts appear different. I have had no regard to this appeal within my decision.

Planning balance and conclusion

21. As the Council cannot demonstrate a five year housing land supply, both parties agree that the main policies which would be relevant to this appeal are out of date. These are Policies CS1, CS4 and CS17 which together and amongst other matters deal with spatial housing development issues. Paragraph 11 of the Framework is therefore engaged which requires that planning permission is granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against policies of the Framework when taken as a whole.
22. The proposal is acceptable in terms of its sustainable position within a residential area and it has good public transport links. It would result in three additional dwellings which would make a small contribution to the housing supply and I give this moderate weight in favour of the proposal. There would be a short term economic benefit during the construction phase and a small ongoing benefit from additional support for local services. However, given the scale of the proposals, this would not be a substantial contribution and I give this limited weight. I am not satisfied that the proposal would be acceptable in terms of its effect upon the living conditions of future occupiers or those within adjacent properties and I afford this substantial weight within my decision.

⁵ Reference 4/2355/04/FUL.

23. Having regard to Paragraph 11(d) and the conflict with the Local Plan, the harm which would result from the proposal upon the living conditions of future and occupiers and neighbouring residents, significantly and demonstrably outweighs the public benefits derived from three additional dwellings on this particular site. The proposal therefore conflicts with the development plan and the Framework when considered as a whole.
24. For the reasons stated above the appeal is dismissed.

E Symmons

INSPECTOR