
Appeal Decision

Site visit made on 10 September 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2019

Appeal Ref: APP/X0415/W/19/3219988

Kerns, 11 Woodlands Drive, Knotty Green HP9 1JY

- 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 4 Lee's Limited against the decision of Chiltern District Council.
 - The application Ref CH/2018/0825/FA, dated 30 April 2018, was refused by notice dated 2 November 2018.
 - The development proposed is the demolition of an existing dwelling and erection of two new semi-detached family dwellings with associated amenity space and car parking.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of an existing dwelling and erection of two new semi-detached family dwellings with associated amenity space and car parking at Kerns, 11 Woodlands Drive, Knotty Green HP9 1JY in accordance with the terms of the application, Ref CH/2018/0825/FA, dated 30 April 2018, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matter

2. I have taken the description of the proposal from the application form but have removed unnecessary descriptive wording.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the site and surrounding area.

Reasons

4. The appeal site comprises a detached dwelling in a spacious plot, located in a predominantly residential suburban area. The building has a simple form, with a pitched roof and single storey garage to the side. The area is characterised by regularly spaced substantial detached dwellings in generous plots. They are set well back from the road behind front gardens and parking courts. Dwellings are generally two storeys with pitched roofs, but there is a variety of styles and external materials, and there is no predominant house design. Some of the properties have chimneys, and there is no consistent pattern with regard to their location within the roof.
5. The appeal proposal would result in the replacement of the detached house with a pair of semi-detached dwellings. The building would be symmetrical, with a single shared access serving the two dwellings, with two garage doors

and two front doors. While there are no other semi-detached houses in the nearby area, and the building would have a larger footprint than the existing building on the site, the bulk, form and scale of the building would be similar to neighbouring buildings. As the roof would be fully hipped either side, and it would retain sufficient spacing to the boundaries, it would not appear cramped on the site. The building would extend rearwards past the elevations of its immediate neighbours, but this rear element would be set in from the side boundaries, and so that its bulk would not be readily visible from the surrounding area.

6. The front garden would be largely hard surfaced for parking, but I saw on my site visit that this would be similar to many of the neighbouring properties, and therefore would not appear out of keeping. While it is likely to be more intensively used for parking than if it served a single dwelling, there would be space for planting along the front boundary, with the result that it would have a similar appearance to other front gardens in the area. Due to the parking court to the front with a shared access, the narrowness of the plots would not be readily apparent in the street scene.
7. The proposal would result in a more intensive form of development on the site, that would have a different appearance to neighbouring properties, but bearing in mind the wide range of building styles in the immediate area, the proposal would not result in a cramped or contrived form of development, and it would be compatible with the street scene.
8. The garages would project slightly in front of the main elevation and to the front of the neighbouring properties, but as this would be at ground floor level it would not result in the building being unduly prominent in the street scene. The design of the front elevation would provide sufficient visual interest so that it would not be bland or at odds with the character of the area.
9. The area of flat roof would not be readily apparent from ground level and there are similar features on other newer properties in the area. The use of the roof space to provide an additional level of accommodation would not be apparent from the front of the property, nor would it result in a building that would be visibly out of scale with its neighbours. The inclusion of a chimney in the front roof slope would not be an alien feature in this context. The colour of the external materials could be controlled through a condition, in order to ensure that its finished appearance would be appropriate to its setting.
10. For the reasons set out above, I conclude that the proposal would not be harmful to the character and appearance of the site and surrounding area. Accordingly, it would not conflict with Policies H3 and GC1 of the Chiltern District Local Plan 1997 with adopted alterations 2001, consolidated 2007 and 2011, or Policy CS20 of the Core Strategy 2007, insofar as they seek to ensure that new development is of a high standard of design that relates well to site characteristics and is compatible with the character of the area. It would also be in accordance with the guidance in the National Planning Policy Framework.

Other Matters

11. Local residents have raised a series of concerns. Windows to the side elevations could be obscure glazed to prevent overlooking of neighbouring gardens. The side roof lights would not be likely to afford views into neighbouring gardens, due to their position within the roof slope. There is an existing degree of

mutual overlooking from upper floor windows on rear elevations across neighbouring gardens, and the proposal would not significantly worsen this. As the bulk of the rear projection would be set in from the side boundaries, any effect on the outlook from neighbouring properties would be limited, and it would have a minimal effect on their daylight and sunlight.

12. Woodlands Drive is a residential road with a footway on both sides. At the time of my site visit there was little traffic, but I accept that at peak times it would be busier, and that it is well used by pedestrians, including school children. Adequate parking is proposed to meet the Council and Highway Authority requirements, and in any event there is no firm evidence that any overspill parking on Woodlands Drive would be harmful to highway or pedestrian safety.
13. Restrictive covenants are a private matter, and do not have any bearing on my decision. I have seen no firm evidence that the proposal is likely to cause damage to the road surface. The relative affordability of a semi-detached house is not a matter that affects my decision in this case.
14. Each application and appeal must be determined on its individual merits and a generalised concern in relation to setting a precedent does not justify withholding permission in this case.

Conditions

15. The Council has suggested conditions to be imposed should the appeal be allowed. I have considered these in the light of the advice in the Planning Practice Guidance (PPG). In addition to the standard condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, in the interests of clarity.
16. Details of external materials and levels are required in the interests of the character and appearance of the area. The condition requiring the obscure glazing of first floor flank windows is required in the interests of the privacy of neighbouring occupiers. Conditions requiring the provision of the access, parking and manoeuvring, and the closing up of the existing access, are required in the interests of highway safety. The condition relating to biodiversity safeguards and enhancement is required in the interest of protected species and biodiversity.
17. The PPG advises that conditions restricting the future use of permitted development rights may not pass the test of reasonableness or necessity. The removal of rights to insert additional first floor windows is reasonable and necessary to prevent overlooking of neighbouring properties. However, no justification has been put forward to remove permitted development rights to extend or carry out other alterations to the dwellings, and this suggested condition therefore fails the tests of reasonableness and necessity. The condition relating to site levels is required to be discharged before development commences and the appellant has indicated that this is acceptable.

Conclusion

18. For the reasons given above I conclude that the appeal should be allowed.

N Thomas

INSPECTOR

Schedule of 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: Location Plan, Drawing Numbers 5544-A101 D, 5544-A102 C.
- 3) Prior to the commencement of any works on site, detailed plans, including cross section, showing the existing ground levels and the proposed slab and finished floor levels of the dwellings hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. Such levels shall be shown in relation to a fixed datum point located outside the application site. Thereafter the development shall not be constructed other than as approved in relation to the fixed datum point.
- 4) No above ground construction work shall take place until samples of all external facing and roofing materials have been submitted to and approved by the local planning authority in writing. The relevant works shall be carried out in accordance with the approved sample details.
- 5) The dwellings hereby permitted shall not be occupied until the first floor windows on each flank elevation have been fitted with obscured glazing, and no part of those windows that is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.
- 6) 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 other than those expressly authorised by this permission shall be constructed on the flank elevations at first floor level.
- 7) Prior to the occupation of the development the new access, parking and turning shall be constructed in accordance with the approved plans and shall be permanently maintained for those purposes.
- 8) Within one month of the new access being brought into use, the existing access point shall be permanently stopped up by raising the existing dropped kerb or removing the existing bellmouth and reinstating the footway and highway boundary to the same line, level and detail as the adjoining footway and highway boundary and retained thereafter.
- 9) The development shall be undertaken in accordance with the recommended safeguards provided within the Bat Survey produced by Arbtech Consulting Ltd (August 2018). Prior to the commencement of development above ground level, details of ecological enhancements shall be submitted to and approved by the Local Planning Authority. The scheme must include details of native landscape planting and provision of artificial roost features, including bird and bat boxes, to achieve a net gain in biodiversity. The development shall be carried out in accordance with the approved details which shall thereafter be retained.