



Appeal Decisions

Site visit made on 4 February 2020

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal A Ref: APP/N1920/W/19/3235298

The Lodge, California Lane, Bushey Heath WD23 1ES

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Bhundia against Hertsmere Borough Council.
 - The application Ref 19/0899/FUL, is dated 6 June 2019.
 - The development proposed is demolition of existing house and outbuilding. Erection of two-storey house with accommodation within the roof with five surface level parking spaces. New crossover to form carriage driveway.
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Appeal B Ref: APP/N1920/W/19/3239513

The Lodge, California Lane, Bushey Heath WD23 1ES

- 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 Mr & Mrs Bhundia against the decision of Hertsmere Borough Council.
 - The application Ref 19/1300/FUL, dated 6 June 2019, was refused by notice dated 11 October 2019.
 - The development proposed is demolition of existing house and outbuilding. Erection of two-storey house with accommodation within the roof with five surface level parking spaces. New crossover to form carriage driveway.
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Decisions

Appeal A Ref: APP/N1920/W/19/3235298

1. Appeal A is allowed and planning permission is granted for demolition of existing house and outbuilding. Erection of two-storey house with accommodation within the roof with five surface level parking spaces. New crossover to form carriage driveway at The Lodge, California Lane, Bushey Heath WD23 1ES in accordance with the terms of the application, Ref 19/0899/FUL, dated 6 June 2019, subject to the conditions set out in the Schedule at the end of this decision.

Appeal B Ref: APP/N1920/W/19/3239513

2. Appeal B is allowed and planning permission is granted for demolition of existing house and outbuilding. Erection of two-storey house with accommodation within the roof with five surface level parking spaces. New crossover to form carriage driveway at The Lodge, California Lane, Bushey Heath WD23 1ES in accordance with the terms of the application,

Ref 19/1300/FUL, dated 6 June 2019, subject to the conditions set out in the Schedule at the end of this decision.

Procedural Matters

3. As set out above, there are two appeals on this site. They differ in that the Appeal B proposal would have a crown roof which would be lower than the ridge height of the Appeal A development. Also, there would be differences in the rear elevations of the proposals, particularly in that the 2 story element of the Appeal B dwelling would be stepped in away from the adjacent property, Canouan Cottage. I have considered each proposal on its individual merits, but to avoid duplication I have dealt with the two schemes together.
4. The descriptions of development in the heading and decisions above have been taken from the respective planning application forms. In Part E of both appeal forms it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties have confirmed that revised descriptions of development have been agreed. Accordingly, I have used those given on the original applications.
5. Appeal A results from the Council's failure to determine the planning application within the prescribed period. There is no formal decision on the application, as jurisdiction over that was taken away when the appeal was lodged. However, the Council have submitted a statement which sets out the reasons why it would have refused planning permission had it been empowered to do so. I have drawn on the evidence before me to inform the main issues in this appeal.

Main Issues

6. A main issue for both Appeal A and B is the effect on the character and appearance of the area. For Appeal A there is also the additional main issue of the effect on the living conditions of the occupiers of Canouan Cottage in respect of light and outlook.

Reasons

Character and appearance

7. California Lane is characterised by residential property of varying styles and sizes. The road has a pleasant semi-rural feel being narrow, lined by vegetation and having no pavement. Both proposals would involve replacing the existing house with a new detached dwelling which would be seen from the road.
8. The proposed dwellings would be taller than the existing house and properties either side. Nevertheless, as they would be set back further from the road compared to Canouan Cottage and California House, they would not appear inordinately dominant. Furthermore, whilst the proposals would lead to larger buildings in terms of floorspace, both would also be narrower than the existing house and would thereby lead to additional space between properties. The proposals would have front projections and larger roofs than the existing house, but given the variety of buildings on the road, the design and size of the proposed dwellings would not be incongruous to the area.
9. For these reasons, I conclude that the developments proposed under both Appeal A and Appeal B would not be harmful to the character and appearance

of the area. In this regard, they would accord with policy CS22 of the Hertsmere Development Plan Document Core Strategy 2013, policies SADM3 and SADM30 of the Hertsmere Local Plan Site Allocation and Development Management Policies Plan 2016, the Hertsmere Local Development Framework Supplementary Planning Document – Planning and Design Guide Part D draft 2016 (SPD) and the National Planning Policy Framework (the Framework). These all aim, amongst other things, to ensure development responds positively to its surroundings.

Living conditions of the occupiers of Canouan Cottage

10. Canouan Cottage has rear facing ground and first floor windows in close proximity to the appeal site boundary. The dwelling proposed under Appeal A would include single and 2 storey elements close to the boundary and that would project out beyond the rear of Canouan Cottage.
11. The Appeal A proposal would fail to comply with the 45° line code as referred to under Part 3.a) of the SPD. However, it would be set further away from the common boundary than the existing house and would include the demolition of a single storey outbuilding on the common boundary. The appellants' assessment indicates the Appeal A proposal would not significantly reduce sunlight or daylight received by the closest windows in Canouan Cottage. Furthermore, 3 trees in Canouan Cottage's back garden that lie between the rear elevation and the boundary would partially screen the proposal. As these trees already affect light to and outlook from the closest windows in Canouan Cottage, the Appeal A proposal would not cause any significant additional harm in this respect compared to the existing situation.
12. Reference is made to a decision to refuse planning permission for a replacement house at Canouan Cottage¹ on grounds of loss of outlook to The Lodge. However, this previous proposal is significantly different to the current appeal developments and so fails to affect my conclusion in respect of this main issue.
13. For these reasons, I conclude the Appeal A proposal would not harm the living conditions of the occupiers of Canouan Cottage in respect of outlook or light. Consequently, and in this regard, it would accord with the Framework which aims, amongst other things, to ensure a high standard of amenity for occupiers of properties. The proposal fails to fully comply with guidance provided in the SPD in that the 45° line would be breached, but the other considerations set out above are of sufficient strength to collectively outweigh that non-compliance.
14. The Council raise no objection to the Appeal B proposal in this regard as the 2 storey element would be stepped in from the boundary and so comply with the 45° line code relating to Canouan Cottage's rear windows. I find no reason to come to a different conclusion in respect of Appeal B on this main issue.

Other Matters

15. A number of other issues have been raised in respect of the proposals. The existing house is of some age but it is not statutorily listed and the area includes properties of various ages. As such, the demolition of The Lodge would not harm any heritage interest or the character of the area.

¹ Council ref. no. 16/2431/FUL

16. The proposed houses would be seen from ground and first floor windows to the rear of California House that face directly towards the site. However, an intervening single storey projection would partially block views from the ground floor window and the gap between the windows and the proposed developments would ensure that a reasonable degree of outlook would remain. Any additional overbearing effect or overshadowing caused by the proposals would primarily affect the roof of the rear projection to California House, thereby avoiding any significant impact on windows or garden.
17. The proposed rooflights would direct views skywards rather than down towards adjacent properties, thereby avoiding overlooking. The rear bay window proposed as part of Appeal A would be angled towards the centre and end of California House's garden but would not face windows and so avoid a significant loss of privacy. To avoid overlooking, conditions could be imposed that prevent the flat roof elements of the developments being used as balconies. The appeal proposals would be markedly different to the extension to California House that was refused planning permission due to overlooking concerns² and so this previous decision has no bearing on my assessments.
18. Given the scale of the developments, it is unlikely that construction works associated with the proposals would prejudice highway safety or harm the living conditions of occupiers of property by reason of dust. The existence of any asbestos on the site could be properly addressed as part of the construction works. Hours of work conditions could be imposed to prevent construction noise causing harm to the living conditions of occupiers of houses.
19. There is no reason that the proposals would lead to additional noise due to future residents' use of the back garden. The proposed removal of a single tree would cause no harm to the character of the area and planning conditions could be imposed to protect trees to be retained. By reason of separation distances, the developments would not cause any marked additional overshadowing of the road. The proposals would not cause additional flood risk and there is ample space on the site for appropriate surface water drainage.
20. In the absence of any substantive evidence to dismiss the appeals on any of the above grounds or complaints, the concerns raised do not override or affect my conclusions on the main issues.

Conditions

21. I have considered the planning conditions forwarded by the Council having regard to the tests set out in the Framework. Where appropriate, I have amended the wording of the suggested conditions for reasons of precision.
22. For both appeals, 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. Conditions relating to the materials is necessary in order to ensure the satisfactory appearance of the proposed developments and associated driveways and car parking areas. A condition is imposed in respect of both appeals to ensure the developments are carried out in accordance with the submitted tree report and to protect trees to be retained.
23. It is necessary to restrict the hours of construction to those indicated by the appellants and to ensure works do not unduly affect the living conditions of

² Council ref no 15/1026/HSE

occupiers of nearby houses. The appellants have had the opportunity to respond to a third party suggestion that the flat roof areas of the proposed developments should not be used as balconies. Such a condition is imposed in respect to both appeals to protect neighbouring properties from unacceptable loss of privacy.

Conclusions

24. For these reasons, I allow both Appeal A and Appeal B as set out in the formal decision above

Jonathan Edwards

INSPECTOR

Schedule of Conditions – Appeal A Ref: APP/N1920/W/19/3235298

- 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: C308-10 Rev C, C308-12 rev C, C308-13 Rev C, C308-14 Rev C, C308-21 Rev C, C308-22 Rev C, C308-23 Rev C, C308-25 Rev C, C308-31 Rev C, C308-32 Rev C, C308-33 Rev C, C308-34 Rev C, C308-35 Rev C, C308-40 Rev C, C308-41 Rev C.
- 3) No development shall take place above damp proof course before details and/or samples of all external facing materials to be used in the construction of the dwelling hereby approved and to be used for external hard surfaced areas of the development, including roads, driveways and car parking areas have been submitted to and approved by the local planning authority in writing. Development hereby permitted shall be carried out in accordance with the approved details.
- 4) The development shall be carried out in accordance with the Report on the Impact on Trees dated 6th June 2019 - reference: 1-38- 4788. In the event that any trees are accidentally damaged or destroyed in the construction of the development hereby permitted, then replacement tree(s) shall be planted in the first available planting season with other tree(s) of a similar size and species.
- 5) Demolition or construction works shall take place only between 08:00 to 17:00 on Mondays to Fridays, 08:00 to 13:00 on Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 6) Any roof area of the dwelling hereby permitted shall not be used as a balcony, roof garden or similar amenity area.

Schedule of Conditions – Appeal B Ref: APP/N1920/W/19/3239513

- 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: C308-10 Rev F, C308-12 rev E, C308-13 Rev E, C308-14 Rev E, C308-21 Rev F, C308-22 Rev E,

C308-23 Rev F, C308-25 Rev E, C308-31 Rev F, C308-32 Rev F, C308-33 Rev F, C308-34 Rev E, C308-35 Rev E, C308-40 Rev E, C308-41 Rev E.

- 3) No development shall take place above damp proof course before details and/or samples of all external facing materials to be used in the construction of the dwelling hereby approved and to be used for external hard surfaced areas of the development, including roads, driveways and car parking areas have been submitted to and approved by the local planning authority in writing. Development hereby permitted shall be carried out in accordance with the approved details.
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