
Appeal Decision

Site visit made on 13 January 2020

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 February 2020

Appeal Ref: APP/A1910/W/19/3237997

26 Pancake Lane, Hemel Hempstead HP2 4NQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by OPM Property Services Ltd against the decision of Dacorum Borough Council.
 - The application Ref 4/01589/19/OUT, dated 2 July 2019, was refused by notice dated 28 August 2019.
 - The development proposed is for the demolition of existing bungalow and construction of dwelling house with 8 flats within the existing envelope.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of neighbours to the site;
 - Any protected bats that may roost at the existing site;
 - The flood risk of the area through drainage.

Procedural Matters

3. The appeal seeks outline permission with all matters reserved except for access. In so far as the submitted plans and drawings show details of the proposal, I have treated those as being illustrative.
4. I am aware of appeal reference APP/A1910/W/19/3228091 which was dismissed for the construction of two identical buildings with 16 flats in total. However, whilst there are some similarities in the cases, there are also clear differences in the proposals. I have, however, taken this recent decision into account in my considerations of this appeal.

Reasons

Character and Appearance

5. As stated above, this is an outline application with all matters, including scale and appearance, being reserved. However, the proposal has been submitted

with detailed plans and there is no suggestion that the final design would differ to any great extent from that presented with the submitted plans and drawings. I therefore consider it likely that the scale and appearance of the proposed development submitted with the plans and drawings give a good impression on what the likely final scheme would be. I have considered the proposal on this basis, although keeping in mind there is some scope for variation with reserved matters.

6. This is an area which is characterised by two storey houses (either detached or semi-detached) or bungalows, often set in spacious plots. There is a variety of styles, although most have traditional style pitched roofs, some with dormers.
7. The proposed building would be significantly larger than the existing bungalow, although this is a large plot. Even considering the inclusion of the proposed car park to the rear of the building, there would still remain a front and rear garden space. The site would still appear spacious based on the development indicated in the submitted plans and drawings.
8. In terms of the appearance, the proposed building would be two storeys but with a mansard roof. Whilst there may be some examples of other mansard or similar roof types locally, this roof type is not typical in the area, where pitched roofs are the predominant feature. Whilst there may be no particular policy restriction to this type of roof, the mansard roof as proposed would add significantly to the bulk and mass of the building, which already would be large, especially when compared to the existing bungalow. Although the building may not be taller than that previously approved at the site or the height of other houses in the area, the result would be an overly bulky building within the street scene, with the mansard roof form also be an incongruous feature in this setting. Furthermore, I do not accept that landscaping would visually contain the development to the extent that its impact would be sufficiently mitigated.
9. I am aware of the previous approved development for the replacement dwelling, but this had a different appearance, with the use of pitched roofs, which would have the effect of reducing the mass and bulk of the building. As such, this previous planning permission for the replacement dwelling does not weigh significantly in favour for this latest proposal.
10. The appellant has drawn my attention to appeal reference APP/U1105/W/17/3177340, which saw the appeal allowed for a modern architectural development at The Knowle in Sidmouth. However, this was not for a development in the area or context of this appeal site. Furthermore, the Inspector in this other appeal concluded that the modern architecture complements and does not compete with the surrounding built environment and its traditional architecture. It is my opinion that the proposed development with this appeal would be at odds with the character of the street scene and have an adverse impact.
11. Although I note that appearance and scale are reserved matters, there is nothing to suggest in the submitted detailed plans and drawings that the appellant would seek a materially different design and scale of development at reserved matters stage. On this basis, whilst not an overdevelopment of the plot, I would regard the proposal as harmful to the character and appearance of the area and would therefore conflict with Core Strategy Policies CS4, CS11, CS12, and Saved Policy 111 of the Decorum Borough Local Plan. These policies, amongst other things, encourages appropriate residential development

in residential areas; require high quality design with regard to existing character; and ensure higher buildings make a positive contribution to the townscape.

12. However, it has not been made sufficiently clear how the proposal is contrary to Appendix 3 of the Dacorum Borough Local Plan and I have not therefore included this in the above list of policies.
13. Furthermore, the proposal is contrary to policy related to design within the National Planning Policy Framework (the Framework).

Living Conditions

14. The existing dwelling on site is a low profile bungalow. This is proposed to be replaced by a much taller and bulkier building containing 8 flats. The proposed building would be close to the side boundary and side elevation of No 24 Pancake Lane, which is another bungalow and the nearest neighbour to the development.
15. Unlike with the previous appeal, the proposal would be for just one building rather than two, which would be positioned to the side of the bungalow at No 24. Although the proposed building would be clearly visible from the curtilage of No 24, much of their side boundary would remain relatively open as it is currently. Therefore, I do not regard the proposal as resulting in an oppressive or overbearing impact to occupants of No 24.
16. As with the previous appeal, the site is located towards the northeast of No 24 and it is therefore unlikely that the development would result in a significant or harmful loss of sunlight to either the dwelling or garden of No 24.
17. Given the separation distance of other neighbouring plots from the appeal site I do not regard it likely that there would be any significant impact to living conditions to any other neighbours.
18. I therefore conclude that the proposal would not result in significant adverse impacts to neighbour living conditions, based on the plans and drawings submitted at this outline stage. The proposal in this regard is in accordance with policy CS12 of the Core Strategy which amongst other things seeks to secure development that avoids visual intrusion to surrounding properties.

Protected Species

19. The evidence from the Council does not include substantive details about the presence of protected species at the site. However, the Council state that a survey for bats would be needed, although none have been provided. Bats are a protected species under the Wildlife and Countryside Act 1981, and a European Protected Species under the Conservation of Habitats and Species Regulations 2017.
20. Considering the proposal includes the demolition of an old bungalow to make way for the proposed development, with there being mature landscaping nearby and the open countryside within a short distance from the site, I do not consider it unreasonable to expect a bat survey to be required. The appellant has not supplied detailed evidence why bats would not potentially be present at the site, such as with a Preliminary Roost Assessment for example.

21. As was set out in the previous appeal at this site, paragraph 99 of Circular 6/2005 states that conditions requiring surveys should only be used in exceptional circumstances. There are no exceptional circumstances that appear to exist and as such it is not appropriate to address the lack of survey by means of imposing a condition or for such information to be submitted with the reserved matters.
22. For these reasons, the appellant has failed to demonstrate that the appeal scheme would avoid or adequately mitigate unacceptable harm being caused to bats. Paragraph 175(a) of the Framework states that in the absence of avoidance or adequate mitigation of harm to biodiversity, planning permission should be refused.
23. As with the previous Inspector's conclusions for the appeal at this site, I find that Policy CS26 does not appear to be wholly relevant, given that it relates to green infrastructure. I therefore do not conclude that the development is in conflict with this particular policy but nonetheless it is in conflict with the Framework.

Drainage

24. The appellant has provided evidence that the site is within Flood Zone 1 and so is in an area where there is only a low risk of flooding. I therefore do not consider there to be the basis for the need for a Flood Consequence Assessment.
25. Some details have been provided as to the drainage proposal, albeit this information is limited as this is an outline proposal. Nonetheless, the appellant states that permeable surfacing will be used, and the aim is for zero rainwater discharge into the public rainwater/sewer system. There is no substantive evidence before me to suggest that this cannot be achieved or that the development would necessarily result in increased flood risk.
26. I am therefore satisfied that a condition could be imposed if this appeal was allowed which would require full details of foul and surface water drainage. On this basis the proposal should not result in increased flood risk, thereby being in accordance with policy CS31 of the Core Strategy, which required development to minimise water runoff, amongst other things.

Planning Balance

27. The appellant has stated that there was a lack of communication with the Council through the planning application process and that avoidable delays also happened. However, whilst I note these issues, they do not affect my determination of this appeal, which is based on the merits of the proposal.
28. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.

29. In the context of the development plan I have found that the proposed development would be contrary to Core Strategy Policies CS4, CS11, CS12, and Saved Policy 111 of the Decorum Borough Local Plan. For this appeal, I have found these policies to be generally consistent with the relevant aims and policies of the Framework.
30. The proposal would contribute 8 new dwellings (net increase of 7) to the local housing land supply in a relatively accessible location, which the appellant states would be an efficient use of the site. Whilst not a major scale development, this would have modest weight in favour of the development.
31. I note that there has been no objection from the Council with regards parking provision, but this is a neutral factor and does not weigh in favour of the development to any significant degree.
32. However, the potential harm to protected species and also the harm to the character and appearance identified above would be significant and as a result sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

33. For the reasons given above the appeal should be dismissed.

S. Rennie

INSPECTOR