



Appeal Decision

Site visit made on 7 July 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2020

Appeal Ref: APP/J1915/W/20/3245001

Land Adjacent to 99 Dimsdale Crescent, Bishops Stortford, Hertfordshire CM23 5LW

- 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 Laurence De Grandis against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1558/FUL, dated 23 July 2019, was refused by notice dated 4 October 2019.
 - The development proposed was described as 'the construction of a 1.5 storey, semi-detached residential house at the application site. The house will comprise of 1 bedroom, along with en-suite and living space within the roof space area, with kitchen, toilet and living room facilities on the ground floor. GIA of 53.6 square meters.'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a dwelling at Land Adjacent to 99 Dimsdale Crescent, Bishops Stortford, Hertfordshire CM23 5LW in accordance with the terms of the application Ref 3/19/1558/FUL, dated 23 July 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. The description of development in the banner heading above is taken from the application form. However, the Council altered the description on the decision notice to read 'erection of a new dwelling'. This provides a more succinct description of the proposal, and I have used it in my formal decision above.
3. The site address given on the application form was '99 Dimsdale Crescent, Bishops Stortford CM23 5LW', but the site boundary shown on the submitted site location plan is more accurately represented by the address stated on the Council's decision notice, and so I have used this address in the banner heading and my decision above.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area;
 - ii) the effect of the proposal on the living conditions of the occupiers of 5 The Hedgerows with particular regard to whether or not it would be overbearing; and
 - iii) whether or not living conditions for future occupiers of the dwelling would be acceptable, with particular regard to the provision of internal space.

Reasons

Character and Appearance

5. Near to the appeal site, Dimsdale Crescent comprises mostly terraced dwellings and flats which are typically arranged on stepped building lines around small cul-de-sacs. The high density of the layout and close-knit arrangement of the terraced buildings contributes a somewhat enclosed character along the street scenes, but this is balanced by areas of green space and parking between and around dwellings which provide for a degree of spaciousness.
6. The appeal site currently forms part of the garden to the side of 99 Dimsdale Crescent, an end-of-terrace dwelling at the head of a cul-de-sac. No 99, as well as 97 and 97A Dimsdale Crescent opposite have pedestrian-only access to their frontages to either side of a small grassed area set between the dwellings.
7. The main parties refer to previous proposals for a dwelling on the site which have been dismissed at appeal¹. Although I have not been provided with full details of these proposals, it is clear from the evidence before me that there have been changes to the dwelling which is now proposed, including a reduction in its overall scale and an increase in the set in from the boundary with 5 The Hedgerows to the side of the site.
8. No 97A is a fairly recent addition which I saw has extended the terrace opposite the appeal site. The similar position of the dwelling at the end of the cul-de-sac facing No 97A would not therefore harmfully unbalance the general arrangement of dwellings along the street. The front and rear building lines of the dwelling would also align with those of No 99, and matching materials and a pitched roof design are additionally proposed. Although not a common feature, there are other first floor dormers apparent in the street scene near to the appeal site, including at 85 and 87 Dimsdale Crescent. As a consequence, the proposed front dormer would not be a remarkable feature in the street scene, and the modest scale of both the front and rear dormers would sit comfortably within the host roofslopes.
9. The dwelling would occupy a smaller plot than others nearby, and it would be of reduced width. It would also be of lesser height than No 99. However, there is already some variation in the street scene through differing external finish materials and the stepped building line, as well as the mix of terraces and flats and as a consequence of past alterations. The stepped building line means that the roofline to dwellings on this part of Dimsdale Crescent does not appear uniform from the street scene, and while the difference is less pronounced than would be the case on the appeal site, the roof of No 97A is higher than its attached neighbour at No 97. Given these factors, I do not find that the reduced scale of the dwelling would cause it to appear overly conspicuous or jarring. Moreover, the siting of the dwelling at the end of the cul-de-sac beyond No 99 would provide significant screening from the street scene, limiting the visual impact of the development and its prominence.
10. I recognise that the dwelling would reduce open space between the side of No 99 and adjacent dwellings to the north on The Hedgerows. However, the development would not encroach onto the open space to the front of the site, and the set in from the boundary would provide sufficient spacing to the side of

¹ Appeal references APP/J1915/A/08/2075631 and APP/J1915/W/19/3221079

the dwelling to allow a suitable setting for the building, avoiding a cramped appearance. Together with its reduced height and width, there would be a discernible degree of space around the building, and separation to surrounding buildings would be maintained. As a consequence, I find that the existing spaciousness of the area would not be harmfully reduced.

11. I acknowledge that by virtue of its design and lesser scale, the appearance of the dwelling would differ from others nearby, but for the reasons above, I am satisfied that these differences would not cause it to appear obtrusive or discordant on the site. The dwelling would blend in with the overall street scene as a sympathetic addition to the area.
12. I therefore conclude on this main issue that the development would make effective use of the site while responding to constraints and the surrounding development without causing unacceptable harm to the character or appearance of the area. Consequently, and with regard to the material changes to the development from those considered as part of the previous appeal decisions, I find no conflict with Policy DES4 of the East Herts Development Plan 2018 (EHDP). Amongst other things, this policy includes a requirement that development respects or improves the character of the site and surrounding area and that it reflects and promotes local distinctiveness.

Living Conditions – Neighbouring Occupiers

13. The proposal would bring development closer to the boundary with 5 The Hedgerows to the north of the site, with the main parties indicating that the dwelling would be set around 14.5m from the main rear elevation of this neighbouring property. There are existing trees on the boundary of the site with No 5, but in the absence of substantive evidence as part of the appeal to demonstrate that these would be retained following development, I cannot assume that these would continue to offer screening to the site.
14. Nevertheless, the dwelling would be no deeper than 99 Dimsdale Crescent, aligning with its front and rear elevations and so would not increase the depth of development visible from this neighbouring building. While it would have a gable end, this is also a feature of the existing building at No 99, and the lesser height of the dwelling in comparison to No 99 would reduce the scale of the gable and the bulk of the upper part of the dwelling. Taken together with these factors, I am satisfied that the set in that is now proposed between the dwelling and the boundary with No 5 would be sufficient to avoid the development appearing overbearing, visually intrusive or unduly prominent in views from either the neighbouring building or its garden. As a result, and in light of the material changes made to the development, I find that harm to neighbouring living conditions identified within previous appeal decisions has been addressed.
15. For these reasons, I conclude on this main issue that the development would not be overbearing and there would be no unacceptable harm to the living conditions of the occupiers of 5 The Hedgerows. Accordingly, I find no conflict with policy DES4 of the EHDP which includes a requirement that development avoids significant detrimental impacts to the amenity of neighbouring occupiers.

Living Conditions – Future Occupiers

16. The Council asserts that the internal area of the dwelling would not meet the suggested 70sqm for a two-bedroom, three-person dwelling or 79sqm for a

two-bedroom, four-person dwelling within the Government's Technical Housing Standards - Nationally Described Space Standards (NDSS). However, while there is a first-floor room to the front of the dwelling labelled on the floorplans as 'bed 2/study/dressing', the application form and Planning, Design and Access Statement both indicated that the dwelling would have one bedroom and I have considered the proposal accordingly.

17. There is disagreement between the main parties over the size of the dwelling; the Council suggests an internal area of approximately 49.8sqm, while the appellant suggests it would be around 53.6sqm. From the information before me, I am unable to draw any firm conclusions on the actual quantum of the internal area of the dwelling, but in either case, there would be a shortfall against the 58sqm for a one-bedroom two-person dwelling suggested within the NDSS. The Council has also raised concerns that minimum floor areas for bedrooms would not be met, although no quantitative assessment of any shortfall has been provided.
18. However, footnote 46 of the National Planning Policy Framework (the Framework) advises that policies may make use of the NDSS where the need for an internal space standard can be justified. The Council have confirmed that the EHDP does not include a policy relating specifically to internal space standards or compliance with the NDSS. In this context, while the NDSS may provide a useful indication of the reasonable size of dwellings, it is not an absolute requirement.
19. The dwelling would not necessarily be spacious, but it would nevertheless provide a usable and functional area for future occupiers, and the main bedroom would be supplemented by the additional first-floor accommodation to the front part of the dwelling. The rooms would be of practical shapes, and I see no reason that their dimensions or layout would make accommodating furniture or suitable access to space for storage unfeasible. Nor would the internal layout give rise to impractical or constricted circulation routes. Even taking a worst-case assessment of the dwelling's size as put forward by the Council, I am therefore satisfied that the internal environment would not be cramped and that the dwelling would offer comfortable living accommodation for future occupiers.
20. I therefore conclude on this main issue that the development would provide acceptable living conditions for future occupiers. Accordingly, I find no conflict with Policy DES4 of the EHDP which requires, amongst other things, rooms of appropriate size and dimensions in order to meet their intended function.

Other Matters

21. No parking is proposed for the dwelling. However, at the time of my visit, a large number of spaces were available on-street in the vicinity of the site and I saw no parking restrictions nearby or other indications of a high degree of local parking stress. There is no clear evidence before me that additional on-street parking would harm highway safety or cause congestion, and I therefore see no reason to take a different view to the Council and Highway Authority who have not raised concern in relation to parking.
22. Subject to maintenance of suitable boundary treatment, the dwelling's ground-floor windows would not result in overlooking to neighbouring sites. Outlook from the first-floor windows would be similar to those already available from 99

Dimsdale Crescent, and given existing views of neighbouring gardens from within surrounding buildings, the proposal would not result in a harmful loss of privacy. There is no firm evidence that suitable foul drainage to serve the dwelling could not be provided, and while I note comments referring to the effects of previous construction activity nearby, any impacts during development works would be short-term and could be mitigated by careful construction management secured by an appropriately worded condition.

23. Existing trees on the boundary of the site are not protected. The Council has raised no objection in relation to the effect of the proposal on trees subject to appropriate conditions, and from the evidence before me, I see no reason to reach an alternative view.
24. I am satisfied that none of the other matters raised, either individually or collectively, would result in harm that would justify dismissal of the appeal, and the comments by interested parties do not alter my findings on the main issues.

Conditions and Conclusion

25. I have considered the Council's suggested conditions. Where necessary, I have altered these to ensure compliance with the tests outlined at paragraph 55 of the Framework or for clarity.
26. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans for the avoidance of doubt and in the interests of certainty. To safeguard the character and appearance of the area and the living conditions of neighbouring occupiers, conditions are required prior to the commencement of development to agree details of protection for trees and construction management. The appellant has agreed to these conditions.
27. A condition relating to external materials for the development is necessary in order to ensure a satisfactory appearance. The application form indicates that materials should match 99 Dimsdale Crescent and given the surrounding context I see no justification for requiring samples to be submitted. I have therefore altered the Council's suggested condition to require the use of external materials to match No 99. A condition is also necessary to require details of landscaping in the interests of the character and appearance of the area, although I have altered the Council's suggested conditions in order to avoid duplication and to secure the implementation of the agreed details.
28. A condition is also suggested to remove permitted development rights from the dwelling. I am mindful of the guidance at paragraph 53 of the Framework that planning conditions should only restrict national permitted development rights where there is clear justification to do so. However, given the relationship of the proposed dwelling to its plot and neighbouring buildings, a condition to prevent the construction of extensions is necessary in this case in the interests of the character and appearance of the area and the living conditions of neighbouring and future occupiers.
29. Subject to these conditions, and for the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

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 plan: Existing and Proposed plans dated 5 July 2019.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing dwelling at 99 Dimsdale Crescent in accordance with the application form.
- 4) No site clearance, preparatory work or development shall take place until a scheme for the protection of trees on and immediately adjoining the site to be retained (the Tree Protection Plan) and the appropriate working methods (the Arboricultural Method Statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the Local Planning Authority. The scheme for the protection of the retained trees shall be carried out as approved. Any trees that, within a period of 5 years after completion of the development are damaged, die or become seriously diseased or defective shall be replaced in the next planting season in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority.
- 5) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - a) the parking of vehicles of site operatives and visitors;
 - b) loading and unloading of plant and materials;
 - c) storage of plant and materials used in constructing the development; and
 - d) delivery and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 6) No development above ground level shall take place until details of both hard and soft landscape proposals have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - a) means of enclosure;
 - b) planting plans;
 - c) schedules of plants, noting species, planting sizes and proposed numbers/densities as appropriate; and
 - d) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details. Any trees or plants that, within a period of 5 years after planting are removed, die or become seriously damaged, diseased or defective shall be replaced in the next planting season with others of similar size and species.

- 7) 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 enlargement, improvement, addition or other alteration as defined within Class A of Part 1 of Schedule 2 of the Order shall be carried out to the dwelling hereby permitted.