
Appeal Decision

Site visit made on 15 December 2020

by Richard Aston BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 January 2021

Appeal Ref: APP/N1920/W/20/3256804

4 Kemble Close, Potters Bar EN6 5EG

- 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 Krzysztof Falczyński against the decision of Hertsmere Borough Council.
 - The application Ref 20/0308/FUL, dated 27 February 2020, was refused by notice dated 17 April 2020.
 - The development proposed is described as '*new build dwelling to land at the rear of 4 Kemble Close, fronting Oakmere Avenue*'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposal on the character and appearance of the appeal site and area.

Reasons

3. The appeal site is formed by part of the rear garden of No. 4 Kemble Close, a 2-storey semi-detached property in a close, and wider estate of similar properties. Although a number of the properties have benefitted from alterations and extensions, overall, they maintain a strong and uniform suburban character and appearance.
4. The appeal site and neighbouring rear gardens back onto Oakmere Avenue, a wide street of similar properties set back from the carriageway behind soft landscaped front gardens and with generous grass verges with street trees. Oakmere Avenue slopes up from the junction of Carpenters Way which is flanked by significant grassed verges. In combination with the lack of significant development within the rear gardens of properties in Kemble Close the appeal site and neighbouring gardens provide a clear sense of openness and spaciousness that positively contributes to the leafy suburban character and appearance of the area and the Oakmere Avenue streetscene.
5. The introduction of a separate residential use in such a location and on a much smaller plot size would not be consistent with the pattern of residential development within rear gardens of this formally planned estate. Moreover, whilst the flat roof form is an attempt to reflect the form of single storey outbuildings in the locality, and whilst a single storey garage building would be

- replaced, the proposal would be taller and of a significantly greater scale and mass and clearly conspicuous above the rear boundary fencing.
6. Regardless of the materials used the proposal would have a bunker like form and appearance. On both approaches along Oakmere Avenue, in particular from the junction with Carpenters Way, the eye would be unacceptably drawn to an incongruous and unsympathetic intrusion of built form into this suburban residential garden context.
 7. The design approach may well be to introduce a contrast to the prevailing building type and vernacular, but instead of positively contributing, the juxtaposition of such contrasting-built form would be harmfully at odds with the areas prevailing character and appearance. Further, the positive contribution the appeal site currently makes to openness and spaciousness would be harmfully eroded. In such a context the proposal would be detrimental to the visual interests of its surroundings and would not represent a high quality of design.
 8. For these reasons, the proposal would cause significant harm to the character and appearance of the appeal site and area. The appellant has offered to accept a condition for a green roof to be installed but in my view, this, or additional soft landscaping would not adequately mitigate the effects of the proposal and the harm that I have identified.
 9. For these reasons, the proposal would conflict with Policies SP1 and CS22 of the Core Strategy 2013, Policies SADM3 and SADM30 of the Site Allocations and Development Management Policies documents 2016 and Part D Design Guide Supplementary Design Guidance 2013. Amongst other things and when taken as a whole, these require that development recognises and compliments the particular local character of the area, is appropriate in terms of scale and appearance to the local context and is of a high quality of design.
 10. There is no inconsistency with the approach of these development plan policies to achieving the well-designed places objectives of the National Planning Policy Framework ('the Framework'). Accordingly, the proposal would also conflict with the design and character objectives of national policy.

Other Matters

11. The Council's second reason for refusal relates to the proposal's siting and internal layout providing poor standards of amenity in terms of outlook and living conditions. The officer report however, which the Council relies on, refers to internal space standards and loss of privacy.
12. The parties also disagree as to whether this would be a 1 bedroom, 1 or 2-person property and the Council contend it would not accord with the Government's Technical housing standards which are repeated within the Council's guidance¹. However, neither party has provided any clarification in their submissions of the relevant bedroom dimensions of the proposal to enable me to reach a definitive conclusion or whether there are relevant development plan policies.
13. This issue may have caused me to seek further clarification from the parties. However, in this particular case as I have dismissed the appeal for other

¹ Part D of the Design Guide Supplementary Planning Guidance 2013.

reasons this has not been necessary. Even if I had found the proposal to be acceptable in such terms it would not have outweighed the harm that I have identified in terms of the first main issue and it would not have changed the outcome of the appeal. Consequently, consulting the parties would have unduly delayed my decision with no particular benefit to the appellant.

14. My attention has been drawn to other developments in the wider area that the appellant contends demonstrates a trend for development of this type, but the appellant also confirms no recent local developments have sought to develop a site in the manner proposed. My attention has also been drawn to a recent appeal decision within the Council's administrative area².
15. In both cases those proposals may have involved developing residential garden land, but I do not have the full details before me and cannot therefore be certain that the considerations and judgements are directly comparable. The proposal at Birch Grove was also determined by way of a hearing and was for 4 houses on a much larger site. Moreover, having been able to observe both of the sites at my visit I do not consider the proposals are directly comparable to the proposal before me in terms of their context or effects. Each case must also be determined on its own merits based on site specific judgments and considerations and such examples do not alter my view to dismiss this appeal.
16. I acknowledge that pre-application advice was also given and that this is a revised proposal. However, that pre-application advice is not binding, and the Council do not object in principle to residential development. This is simply a case where I have found unacceptable harm to the character and appearance of the appeal site and area. The considerations and judgements require a degree of subjectivity and the Council's administration and determination of the application ultimately has no bearing on the planning merits of the proposal before me.

Planning Balance and conclusion

17. For the reasons given above the proposal would cause significant harm to the character and appearance of the appeal site and area. It would conflict with the development plan, when read as a whole.
18. The appellant does not dispute that the Council can demonstrate a 5-year housing land supply and there is nothing substantive before me in this appeal to indicate this will be affected by the global COVID-19 Pandemic. Nevertheless, the existence of a supply is not a ceiling on such development and the proposal would provide a smaller unit which appears to be in demand in the borough. There would be some small scale economic and social benefits from the creation and occupation of an additional dwelling.
19. The proposal would also make a more efficient use of land in an accessible location, albeit this would be to the detriment of the quality of the built environment. Compliance with other development management requirements such as highway safety, parking and waste management weigh neutrally in the planning balance.

² LPA refs: 15/0941/FUL and 15/0257/FUL.

20. Drawing my conclusions together, these benefits would not outweigh the significant harm and conflicts that I have identified. Material considerations, including the Framework do not therefore indicate that a decision should be taken other than in accordance with the development plan.
21. Having considered all other matters raised I therefore conclude that the appeal should be dismissed.

Richard Aston

INSPECTOR