
Appeal Decision

Site visit made on 26 January 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: Friday, 19 February 2021

Appeal Ref: APP/J1915/W/20/3260368

41 Fanshawe Street, Bengeo, Herford SG14 3AT

- 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 M. Swallow against the decision of East Hertfordshire District Council.
 - The application Ref: 3/20/0158/FUL, dated 20 January 2020, was refused by notice dated 30 March 2020.
 - The development proposed is the construction of two new two-storey houses in the garden of 41 Fanshawe Street.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. References have been made to the emerging Bengeo Neighbourhood Area Plan. Whilst I have had regard to these, the weight that I have been able to attach to these has been reduced on the grounds that this document does not yet appear to have been the subject of a successful referendum.

Main Issues

3. The main issues are:
 - the effect of the development upon the character and appearance of the Conservation Area;
 - the effect of the development upon the living conditions of the occupiers of neighbouring properties;
 - the effect of the development upon highway safety; and
 - the effect of the development upon flood risk.

Reasons

Character and appearance

4. The appeal site consists of the garden of a residential property within the Hertford Conservation Area (the CA). For the purposes of this appeal, the significance of the CA is derived from, in part, from the presence of traditionally designed dwellings that are arranged in a linear form which closely follow the street pattern. In addition, the topography of the surrounding area is defined by there being a steep gradient rising from the River Beane towards,

and beyond, the appeal site. In consequence, the linear form of architecture is readily perceptible from some distance away.

5. Whilst buildings in Fanshawe Street appear to have been constructed at different times, they retain a linear form and also feature a number of traditional design elements. This ensures that existing buildings harmonise with one another.
6. The proposed development comprises two dwellings that would be constructed into the general gradient of the site. In result, it would have a flat roof. This represents a deviation from the traditional roof shapes that are prevalent within the vicinity of the appeal site.
7. Furthermore, whilst the proposed development would be sited away from existing dwellings, the rear garden of the appeal property, in addition to other gardens within the vicinity creates a less developed area that delineates between Fanshawe Street and other dwellings in the wider area.
8. In consequence, the proposed dwellings would conflict with the style of architecture prevalent in significant quantities elsewhere within the CA. This would be exacerbated by the positioning of the proposed dwellings and the palette of materials, which would be at variance with the prevailing character of the surrounding CA. In consequence, the proposed development would appear incongruous.
9. Owing to the topography of the surrounding area, the proposed dwellings would be visible from some distance away. In particular, views would be possible from the river bridge in Beane Road.
10. Whilst views of the entire height of the rear elevation of the proposed dwellings would not be possible owing to the screening effect of some of the existing buildings; elements, including the flat roof would remain visible. As these would clearly be located outside of the existing and strongly defined linear patterns of development, the proposed dwellings would appear strident and incongruous. This would occur even though the proposed dwellings would not punctuate the skyline.
11. In addition, the proposed development would be visible through the driveway that would be created to the side of the existing dwelling. Whilst views between dwellings exist for only limited sections of Fanshawe Street, it is possible to establish that dwellings in the nearby road of Wellington Street are some distance away. In result, the presence of dwellings much closer to the buildings in Fanshawe Street would erode this character.
12. I therefore conclude that the proposed development would have an adverse effect upon the character and appearance of the CA. The development, in this regard, would conflict with the requirements of Policies DES2, DES3, DES4, HA1, HA2 and HOU2 of the East Hertfordshire District Plan (2018) (the District Plan).
13. These policies, amongst other matters, seek to ensure that new developments conserve, enhance and strengthen the character of the landscape; that density is informed by the local character; that a high standard of design and layout is used to promote local distinctiveness; that the historic environment is preserved and, where appropriate, enhanced; and that developments preserve or enhance the special interest of Conservation Areas.

Living conditions

14. The appeal site, in part, consists of a steeply sloping garden. Neighbouring properties have similarly proportioned gardens. Further dwellings and gardens are located to the rear of the appeal site in Wellington Street.
15. By reason of the proposed dwellings being located in proximity to the side and rear boundaries of the site, the proposed development would have an overbearing and enclosing effect upon the neighbouring gardens due to the increase in built form adjacent to the gardens of the neighbouring properties.
16. In addition, the general topography of the area means that the height of the proposed dwellings, when viewed from the gardens of properties in Wellington Street would be exacerbated. This would increase the perception of the proposed development's height and would therefore increase the overbearing effect arising from the siting of the proposed dwellings.
17. There would be some views from neighbouring properties in Fanshawe Street towards the green roofs of the proposed dwellings. However, these would contrast with the existing sloping ground present on the appeal site and on neighbouring properties. This means that the development would still adversely affect the outlook of neighbouring properties.
18. In addition, the fenestration pattern of the proposed dwellings would feature some windows close to the site's boundaries. This would allow for views to be made from the proposal into the gardens of the surrounding properties. This would lead to an erosion of the levels of privacy currently experienced by existing residents. The proximity of windows close to boundaries would erode the sense of privacy that would normally be expected within a rear garden.
19. I note the separation distance that would exist between the rear elevation of the proposed dwellings and the rear elevation of the dwellings that are in Wellington Street. However, whilst this would prevent a loss of privacy to the actual rooms of the neighbouring dwellings, they would not overcome the adverse effects on users of the garden space. Accordingly, this arrangement would not overcome my previous concerns.
20. The proposed development includes a car parking area to the rear of the existing dwelling. Vehicles would travel close to the site's boundaries. In result, noise would be generated as vehicles travel into and out of the site, in addition to having to manoeuvre so that they can be parked and leave the site in a forward gear. This is likely to be clearly audible in the adjoining gardens. Such noise would impinge upon the levels of peace and quiet that residents would experience. This is a concern as these gardens are the only areas where private outdoors recreation might take place.
21. I therefore conclude that the proposed development would have an adverse effect on the living conditions of the occupiers of neighbouring properties. The development, in this regard, would conflict with Policy DES4 of the District Plan. This, amongst other matters, seeks to ensure that new developments avoid detrimental impacts on the occupiers of neighbouring properties.

Highway safety

22. The proposed development would include a total of six off street car parking spaces that are designed to serve occupiers of the existing dwelling, in addition

- to the occupiers of the proposed houses. These would be accessed via a driveway that would be created to the side of the existing dwelling.
23. The existing dwelling currently features a double garage. Whilst this means that the proposed new spaces to serve the existing dwelling might be an appropriate replacement, I note that the proposed dwellings are of a large scale and each would also only have two allocated car parking spaces.
 24. By reason of the scale of the proposed dwellings, there is a reasonable likelihood that, at times, they could be occupied by several adults that might have their own cars. Furthermore, the potential for visitors to arrive at all three dwellings simultaneously cannot be discounted. This means that the proposed development would be unable to always accommodate the associated cars.
 25. In result, there is a likelihood that cars would be displaced onto the surrounding road network. This is a concern as on street provision within the vicinity of the appeal site is relatively limited owing to the presence of dropped kerbs and a number of different road junctions.
 26. In consequence, an increase in the number of cars parked on street has the potential to increase parking in inopportune locations, such as in visibility splays, as residents seek spaces closer to their own individual residences. Such an arrangement would not be conducive to securing satisfactory levels of pedestrian and vehicular safety. In reaching this view, I have had regard to the National Planning Policy Framework (the Framework), which seeks to prevent any new development from having an adverse effect on highway safety.
 27. In addition, at the time of my site visit, I noted a number of vehicles in Fanshawe Street and some of the surrounding roads parked, in part, on the pavement. This reduced the space available for pedestrians to pass. Although my site visit represents a single 'snap-shot' in time, should this occur on a regular basis my concerns would be increased as an increase in parked vehicles would reduce the ability of pedestrians to safely travel.
 28. The appeal site is within the built-up area and near to some public transport routes. Whilst these would be of some use to residents of the proposed development, they cannot be relied upon to serve as an adequate option for all journeys. In result, they do not overcome my previous concerns.
 29. My attention has been drawn to other developments in the surrounding area. I do not have full information regarding their planning circumstances. However, these are in different parts of Bengoe and the pattern of development within their surroundings is different to the appeal scheme. Therefore, the effects of potential increased car parking on the surrounding streets would also be different. In result, these approvals do not offset my previous concerns.
 30. I therefore conclude that the proposed development would have an adverse effect on highway safety. The development, in this regard, would conflict with Policy TRA3 of the District Plan and the Framework. These, amongst other matters, seek to ensure that car parking is integrated into developments to ensure safe environments; and that highway safety is not adversely affected.

Flood risk

31. The appeal site consists of a steeply sloped garden that is, in the main, grass. The garden also contains a terraced area.

32. The proposed development would result in the construction of two dwellings, in addition to the parking and vehicle manoeuvring areas. Such developments have the potential to increase the level of impermeable surfacing at the property. Given that the proposed development would result in a significant change in the site owing to the removal of a significantly sized grassed area. In consequence, the development has the potential to increase flood risk to other sites owing to the increased levels of run-off.
33. In addition, the evidence before me is not conclusive that a system has been designed that would adequately transport foul drainage water away from the proposed development in a safe manner. In result, there is a likelihood that such water could be discharged in an inappropriate manner, which would not be conducive to reducing flood risk, either on site or elsewhere.
34. I have considered as to whether a condition could be imposed to overcome these points. However, as at this juncture, it is unclear as to the scope and level of mitigation that would be needed, a condition could not be drafted with sufficient precision. In consequence, such a condition would be unreasonable
35. My attention has been drawn to another development. However, I do not have details of the planning circumstances of this, which lessens the weight that I can attribute to this. Furthermore, I have not been provided with details of the drainage system in use at this location. In result, this does not overcome my previous concerns.
36. I therefore conclude that the proposed development would have an adverse effect on flood risk. The development, in this regard, would conflict with Policies WAT1, WAT5 and WAT6 of the District Plan. These, amongst other matters, seek to ensure that new developments do not increase the likelihood, or intensity, of any form of flooding; ensure that adequate wastewater capacity is available; and provide the most sustainable form of drainage.

Other Matter

37. The evidence before me indicates that the proposed development would be constructed in accordance with the National Defined Space Standards. Whilst this is a matter of note, it does not overcome my conclusions in respect of the main issues.

Planning Balance and Conclusion

38. The harm that would occur to the character and appearance of the CA would not be severe and therefore it would be 'less than substantial' within the meaning of the Framework. Paragraph 196 of the Framework requires such harm to be weighed against the public benefits of the proposal.
39. The proposed development would result in an increase in the local housing supply and would generate some economic benefits arising from the construction process. However, such benefits by reason of the scale of the development would be small scale, limited in impact and, in some cases, of temporary duration. In consequence, I can give only these benefits a limited amount of weight.
40. Therefore, when giving significant importance and weight to the special attention I must pay to the desirability of preserving or enhancing the character or appearance of the CA, I find that the harm that would arise from

the proposal would not be outweighed by its moderate public benefits. Accordingly, there would be a conflict with Paragraph 194 of the Framework as harm to designated heritage assets would not have clear and convincing justification.

41. Therefore, for this and the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR