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# Appeal Decision

Site visit made on 14 May 2021

**by Rebecca McAndrew BA Hons, PG Dip Urban Design, MSc, MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 July 2021**

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**Appeal Ref: APP/P1940/W/20/3263733**

**Overbury, Woodside Walk, Northwood HA6 3ET**

- 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 Amit Dhamercha against the decision of Three Rivers District Council.
  - The application Ref 20/0644/FUL, dated 23 March 2020, was refused by notice dated 26 May 2020.
  - The development proposed is the demolition of the existing dwelling and erection of two new detached dwellings (resubmission to 19/2038/FUL).
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## Decision

1. The appeal is dismissed.

## Application for Costs

2. An application seeking a full award of costs against the Council has been submitted by the appellant. This application is the subject of a separate decision.

## Main Issues

3. The main issues are;
  - i) The effect of the proposal on the character and appearance of the area, including protected trees; and
  - ii) The effect on the living conditions of the neighbouring occupiers of Dell Lodge, with particular regard to privacy.

## Procedural Matter

4. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

## Reasons

### *Character and appearance*

5. Woodside Walk is characterised by large detached dwellings and, while some of the original plots have been subdivided over the years, these properties are still set within spacious plots. I note that both dwellings proposed by the appeal scheme would sit in plots measuring around 0.1 hectares in area, which would be similar in area to properties on nearby Pinewood Close. I also recognise that the density of the proposed development would be the equivalent of 10 dwellings per hectare. However, the context for the proposed development is Woodside Walk, which has a spacious low-density pattern of development. The appeal plots would be smaller than other properties on this road. Whilst the smaller rear gardens proposed for the appeal dwellings would not be visible within the street scene, this would be at odds with the surrounding area. Taking all the above into account, overall the appeal scheme would fail to reflect the existing development pattern on Woodside Walk.
6. Whilst dwellings on Woodside Walk vary in design, they are predominantly traditional in character. By contrast, the appeal scheme proposes two identical houses which would be contemporary in character. Whilst a contemporary approach would be acceptable in this location in principle, the design detail of the proposed dwellings and the fact that they would be identical would not respond to the local context. Proposed features, such as raised eaves and two-storey flat roof front projections, would be at odds with other homes on Woodside Walk.
7. The proposed dwellings would sit on a similar building line to other properties along Woodside Walk. However, they would sit further forward in the plot than the current property, there would be a lack of space around them and a new central access and associated driveways would include a significant level of hardsurfacing. This, coupled with the discordant design which I have described, would give rise to an overly prominent development within the street scene which would fail to respect the character and appearance of the site and street scene.
8. The scheme proposes the removal of several trees, mostly along the southern boundary of the site, in order to allow the construction of proposed Unit One. These trees are covered by Tree Preservation Order No 362 (TPO). I note that the documentation submitted in respect of the TPO states that the trees were originally protected '*as they are of significant amenity value and add to the sylvan character of the area*'. The appellant's Tree Report predominantly classifies these trees to be Category C which are '*Unremarkable trees of very limited merit*' but may have '*greater collective landscape value*'.
9. I accept that the trees to be removed have limited value when considered individually. However, collectively they make a significant contribution to the semi-rural green character and appearance of the site and Woodside Walk. I note that these trees could be replaced as part of a mitigation scheme and that, as they are protected, there would also be a statutory requirement to replace them if they were removed. However, given the level of development proposed, there would be little available space within the appeal site to secure any replanting. On this basis, the loss of these trees would harm the green and wooded character and appearance of the site and area.

10. A number of trees would significantly overhang the rear garden of proposed Unit One. I am satisfied that the level of sunlight which this garden would benefit from would meet the BRE guideline that *'at least half of the garden/amenity area should receive at least two hours of direct sunlight on 21 March'*. However, this is a minimum standard and inevitably future residents would be likely to desire a more generous level of sunlight to their garden. Also, the juxtaposition of the trees with the rear garden area would be likely to generate complaints about nuisance, in relation to matters such as falling leaves and branches. Together these issues would be likely to lead to undue pressure from future residents to undertake inappropriate works to the trees which would be difficult for the Council to resist. Such works would be to the detriment of the character and appearance of the area.
11. In conclusion, in terms of the design, layout and impact on trees, the appeal scheme would fail to respect the character and appearance of the appeal site and surrounding area. The proposal therefore, in this respect, the proposal would not meet the requirements of Policies CP1 and CP12 of the Three Rivers District Council Core Strategy (2011) (CS), Policy DM1 and Appendix 2 of the Three Rivers District Council Development Management Policies Local Development Document (DMPLDD) (2013) and Paragraph 127 of the NPPF which seek, amongst other things to secure a high standard of design which has regard to local context.

#### *Living conditions of existing residents*

12. The joint boundary between the appeal site and Dell Lodge to the rear includes a combination of chain link and panel fencing. It also benefits from a number of trees and vegetation, which would be retained as part of the development. Whilst the fence panels and vegetation currently provide a good level of screening between the appeal site and the property to the rear, there are clear views into the neighbours' private garden area through the area of chain link fence.
13. Given that the existing dwelling is located at an oblique to this joint boundary and is set away from the area of chain link fence, there is currently no significant overlooking from the property into the neighbours' rear garden. By contrast, the rear elevation of Unit 1 would sit closer to the joint boundary and would directly face the neighbours' rear garden. This would give rise to an unacceptable level of overlooking through the area of chain link fence which would harm the neighbouring occupiers' enjoyment of their private garden area.
14. Nonetheless, views into the neighbours' garden would be obscured if the chain link fence were replaced by a solid boundary treatment. I am therefore satisfied that a condition attached to any consent granted requiring the appellant to submit details of a new rear boundary treatment could safeguard the neighbours' privacy.
15. Therefore, subject to the condition described, the appeal proposal would in this respect comply with policies CP1 and CP12 of the CS (2011) and Policy DM1 and Appendix 2 of the DMPLDD (2013) and Paragraph 127 of the framework which seek, amongst other things, to safeguard the living conditions.

#### **Planning Balance and Conclusion**

16. The Council cannot demonstrate a five-year housing land supply (5YHLS). Consequently, Paragraph 11d of the Framework is engaged whereby there is a presumption in favour of sustainable development and planning consent should be granted unless any adverse impacts of doing so would significantly outweigh the benefits, when assessed against the Framework as a whole.
17. Taking into account the current shortfall, the provision of one net dwelling would provide a modest contribution to the housing supply in the area. There would be social benefits arising from the contribution to the Council's housing supply, noting the Framework recognises the contribution small housing sites can make to housing supply and promotes effective use of land to boost the supply of housing. It would also improve the quality of housing stock in the district and would be located on a brownfield site. The development would generate economic investment both during construction and provide limited support to local services.
18. Nevertheless, the identified adverse impacts of the development in respect of character and appearance would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole, including the presumption in favour of sustainable development.
19. There are no material considerations to indicate that the proposal should be determined otherwise than in accordance with the development plan, with which I have already found conflict. Therefore, I conclude that for the reasons given above, the appeal should be dismissed.

*Rebecca McAndrew*

INSPECTOR