



Appeal Decision

Site Visit made on 12 July 2021

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 August 2021

Appeal Ref: APP/J1915/W/21/3270098

Land r/o Abbeyfield House, Cricketfield Lane, Bishops Stortford CM23 2SR

- 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 Heritage Estate Group Ltd against the decision of East Hertfordshire District Council.
 - The application Ref 3/20/2471/FUL, dated 7 December 2020, was refused by notice dated 27 January 2021.
 - The development proposed is Demolition of garage and erection of a detached two-bedroom bungalow.
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Decision

1. The appeal is allowed, and planning permission is granted for the demolition of a garage and the erection of a detached two-bedroom bungalow at Land r/o Abbeyfield House, Cricketfield Lane, Bishops Stortford CM23 2SR, in accordance with the terms of the application, Ref 3/20/2471/FUL, dated 7 December 2020, and the plans submitted with it, subject to the conditions within the attached schedule.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 20 July 2021. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.

Main Issues

3. The main issues are:
 - the effect of the proposal on the character and appearance of the area, and
 - the effect of the proposed dwelling on the living conditions of existing neighbouring occupiers with respect to privacy and on future occupiers in regard to the quality of internal and external areas.

Reasons

Character and appearance

4. Abbeyfield House addresses Cricketfield Lane. It is a large building that is currently undergoing conversion into five flats. The rear part of the garden has been severed by fencing from the rest of the site forming the appeal site. This site is higher than the ground floor of Abbeyfield House and connects with level

access onto Chantry Close. Chantry Close consists of a range of diverse house-types, including detached and semi-detached housing and single storey dwellings. The site has been cleared of buildings and is currently used as a store for building materials presenting a relatively untidy appearance. The site therefore makes a neutral contribution to the character and appearance of the area.

5. The proposed site would be not be back-land in nature, having a frontage onto Chantry Close. The proposed dwelling would be set back from the highway in a manner that would be similar to adjacent dwellings. Furthermore, the proposal would form a continuation of the adjacent pattern of development arranged around the head of the cul-de-sac. It would include an adequate garden area and car parking and would meet the Council's internal space standards. It would also be a sufficient distance from adjacent neighbouring dwellings. Accordingly, the proposal would not represent a cramped form of development or represent an over development of the plot.
6. The proposed dwelling would have a hipped roof, similar to nearby local dwellings. Its scale would also blend accord with the general form of adjacent garages set either side of the site and nearby bungalows. Accordingly, the proposal would complement the scale and arrangement of existing built form around the head of the cul-de-sac. The proposed weatherboarding is evident locally on some neighbouring dwellings around windows and within garage doors. As such, this material would be in keeping with other examples of its use found locally if coloured in a dark colour. Such a specification could be secured by agreement of a suitable planning condition with respect to the use of materials.
7. Consequently, the proposal would add visual interest to the currently unremarkable site. It would accord with the broad variety of house-types within the local streetscape and would not look out of place for this reason. Also, the proposal has sufficient space within its frontage to accommodate a bin storage area without detriment to the appearance of the area.
8. As a result, the proposal would complement the character and appearance of the area. Therefore, with respect to character and appearance considerations, the proposal would satisfy policy DES4 of the East Herts District Plan 2018 (DP). This seeks, among other matters, for development to promote local distinctiveness. This policy is consistent with the Framework which seeks development to be sympathetic to local character.
9. Policy HOU11 of the DP refers to extensions and alterations to dwellings, residential outbuildings and works within residential curtilages. This is therefore not relevant in the consideration of a proposal for a new dwelling.

Living conditions

10. The appeal site would share a rear boundary with 'Abbeyfield' and side boundaries with 'Glendon' and 'Sherrards'. Due to the change in levels across the site, the rearmost part of the dwelling would need to be raised out of the ground to achieve a level internal floor area. The proposed dwelling includes a window on the west facing elevation which would look towards the side boundary of 'Glendon'.

11. Although being raised above natural ground level, the rear elevation on the boundary contains no windows. A bedroom window would look towards 'Abbeyfield'. However, this is set away from the rear boundary and would provide limited overlooking towards windows due to the significant separation distance. As such, overlooking would not occur towards the rear elevation of 'Abbeyfield' to an extent that would result in demonstrable harm.
12. Furthermore, the garden and dwelling of 'Glendon' would be largely screened by boundary planting, intervening boundaries and the evident change in levels. Accordingly, there would be limited opportunities for views to be obtained towards the neighbouring property. Furthermore, whilst the proposed dwelling would be sited on higher ground it would have a sizeable separation distance to the existing dwellings that address Cricketfield Lane. This would further reduce any scope for overlooking towards rear windows of neighbouring dwellings.
13. The rear garden of the proposal is shown to be around 82sqms, with an internal floor area of about 69sqms. It is undisputed between parties that the proposal would satisfy the Nationally Prescribed Space Standards, although it is unclear to me whether these have been formally adopted by the Council. Nevertheless, the internal layout, size of rooms and total size appears to me to be reasonable to form a good quality of accommodation. Equally, the garden space is of a reasonable and regular size and private.
14. With respect to future occupiers access to daylight and sunlight, it is recognised that the rear windows would be north facing, with moderate access to direct sunlight. Nevertheless, all rooms have access to daylight via windows which are of a conventional size and form. Also, all windows afford views of either the highway or the dwelling's private garden. Therefore, none of these are so close to a boundary fence to result in demonstrable harm to access to daylight. As such, the proposal would provide suitable living conditions for future occupiers.
15. Accordingly, the proposal would not result in a detrimental impact on either existing neighbouring occupiers, future occupiers of the flats within 'Abbeyfields' by reason of privacy, or future occupiers of the proposed dwelling due to the quality of internal and external space. As such, in consideration of the effect of development upon living conditions, the proposal would satisfy policy DES4 of the DP. This requires, inter alia, for development to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties by reason of privacy. This accords with the Framework where it seeks development to achieve a high standard of amenity for existing and future users.

Other Matters

16. The approved scheme, for the main house, included parking spaces within the retained garages to the rear. This would have provided between two and four parking spaces. The rear parking area would no longer be available due to the location of the proposed dwelling and severance of the site. However, the main dwelling would retain six spaces for the five flats within its frontage. The site is within parking zone 4, in a sustainable location, where the frontage parking alone would be adequate for the needs of occupiers of the flats. Furthermore, I recognise that the County Highway's engineer raised no objection to the proposal, a point of significant weight. I see no compelling reason to set aside these conclusions and therefore do not find the loss of rear parking to weigh against the proposal.

17. Noise disturbance during construction has been raised by interested parties. This would be a temporary form of disturbance and a condition could be imposed to limit the hours of construction. Furthermore, the noise and disturbance associated with the erection of a one dwelling would be unlikely to be substantial or materially harm the living conditions of adjacent residential occupiers.

Conditions

18. I have considered the use of conditions in line with the guidance set out in the Government's Planning Practice Guidance (PPG). I shall take the Council's suggested conditions into consideration and impose most of these with some amendments and adjustments for clarity. I have combined the Council's suggested conditions with respect to hardstanding for simplicity. Also, conditions with respect to landscaping would not be necessary due to the limited size of the frontage and its limited scope to accommodate any meaningful landscaped areas. Due to the small scale of the required construction works, and as 'best practical means' is an unclear instruction, it would be unreasonable and impractical to require wheel washing or other similar process to prevent mud or debris being deposited onto the highway.
19. The site was in former use as a garage. The Council's Environmental Health Department requested that a condition be included for a contaminated land survey. I am satisfied that such a condition would be necessary in the interests of living conditions of future occupiers of the dwelling. It would be necessary for the details of such a condition to be agreed by the Council prior to the commencement of development as it may include works to land beneath the footprint of the dwelling. I consider the pre-commencement condition to be so fundamental to the development that it would have been otherwise necessary to refuse permission [condition 3]. The appellant has agreed to the imposition of this, following formal notification under Regulation 2(4) Notice of The Town and Country Planning (Pre-commencement Conditions) Regulations 2018.
20. I have imposed the standard conditions with respect to implementation period and approved plans as advised by the PPG for clarity and certainty [1 and 2]. Conditions are also necessary with respect to the provision of tree retention, materials and car parking in the interests of the character and appearance of the area [6, 10 and 12]. It is also required to impose conditions to limit the hours of construction and to require details of the means of enclosure in the interests of living conditions of neighbouring occupiers [5 and 11]. Conditions with respect to heating and water efficiency, an electric car charging point and internet access are necessary to meet the requirements of policies CC1, DES4(d), WAT4 and EQ4 of the DP [4, 7, 8 and 9].
21. The Council has suggested that a condition be imposed to remove permitted development (PD) rights conveyed by Schedule 2, Part 1, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015. The Framework advises that conditions should not be used to restrict PD rights unless there is clear justification to do so. However, Class A-D works in connection with extensions and roof alterations, undertaken in the exercise of PD rights, could result in adverse privacy and outlook impacts for neighbouring occupiers. Whereas a porch, hardstanding, outbuildings and other minor works would be unlikely to affect such interests. The rights conveyed by Class A-D

have therefore been removed in the interests of the protection of living conditions of neighbouring occupiers [13].

22. Furthermore, a condition to regulate the driving behaviour of new occupiers, when approaching the site, would be unreasonable and unenforceable. Such a condition would not therefore pass the necessary tests of the Framework.

Conclusion

23. The proposal would complement the character and appearance of the area, would not result in material harm to existing or future living conditions and would accord with the development plan when taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal is allowed, and planning permission granted subject to the imposed conditions.

B Plenty

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plan: proposed dwelling – 14193-GP001-B.
- 3) Prior to the commencement of the development hereby approved a scheme to deal with contamination of land and/or groundwater shall be submitted to and approved by the Local Planning Authority and the development should be implemented in accordance with the approved scheme. The scheme shall include all of the following measures unless the Local Planning Authority dispenses with any such requirement specifically and in writing: 1. A desk-top study to identify and evaluate all potential sources and impacts of land and/or groundwater contamination relevant to the site. The requirements of the Local Planning Authority shall be fully established before the desktop study is commenced and it shall conform to any such requirements. 2. A site investigation to characterise the nature and extent of any land and/or groundwater contamination and its implications. The site investigation shall not be commenced until (i) A desk-top study has been completed satisfying the requirements of paragraph (1) above; (ii) The requirements of the Local Planning Authority for site investigations have been fully established; and (iii) The extent and methodology have been agreed in writing with the Local Planning Authority. A written method statement for any necessary remediation of land and/or groundwater contamination affecting the site shall be agreed in writing with the Local Planning Authority prior to the commencement of development and all requirements shall be implemented and completed to the satisfaction of the Local Planning Authority.
- 4) Prior to the completion of foundations, details of the design and construction of the dwellings to demonstrate how the design, materials and operation of the development minimises overheating in summer and reduces the need for heating in the winter to reduce energy demand and reduces water demand, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.
- 5) Prior to the first occupation of the approved dwelling, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected prior to occupation of the dwelling and retained in accordance with the approved details.
- 6) Prior to the first occupation of the dwelling hereby approved, the on-site parking spaces shall be surfaced in a manner to the Local Planning Authority's approval so as to ensure the satisfactory parking of vehicles outside highway limits. These areas shall be retained for such use in perpetuity. Arrangements shall be made for surface water from the site to be intercepted and disposed of separately so that it does not discharge into the highway.

- 7) Prior to first occupation of the development hereby approved, an electric vehicle charging point for the dwelling shall be provided and retained thereafter.
- 8) Prior to the first occupation of the development hereby approved, the provision of high-speed broadband internet connections to the development shall be provided and shall be made available for use prior to first occupation of the residential unit to which it relates.
- 9) Prior to the first occupation, measures shall be incorporated within the development to ensure a water efficiency standard of 110 litres (or less) per person per day is provided.
- 10) The exterior of the development hereby approved shall be constructed in the materials specified on the submitted application form/plans. The colour of the proposed timber cladding shall be submitted and agreed by the local planning authority prior to its installation and maintained as such in perpetuity.
- 11) In connection with all construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 12) All existing trees and hedges shall be retained, unless shown on the approved drawings as being removed. All trees and hedges on and immediately adjoining the site shall be protected from damage as a result of works on the site, to the satisfaction of the Local Planning Authority in accordance with BS5837: 2012 Trees in relation to design, demolition and construction, or any subsequent relevant British Standard, for the duration of the works on site and until at least five years following contractual practical completion of the approved development. In the event that trees or hedging become damaged or otherwise defective during such period, the Local Planning Authority shall be notified as soon as reasonably practicable and remedial action agreed and implemented. In the event that any tree or hedging dies or is removed without the prior consent of the Local Planning Authority, it shall be replaced as soon as is reasonably practicable and, in any case, by not later than the end of the first available planting season, with trees of such size, species and in such number and positions as may be agreed with the Authority.
- 13) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or re-enacting that Order with or without modification), no enlargement, improvement or other alteration of the dwellinghouse shall be undertaken within the curtilage of the dwellinghouse as described by Article 3, Schedule 2, Part 1, Class A, AA, B, C and D of that Order.

End of conditions