

Appeal Decision

Site visit made on 19 July 2021

by Les Greenwood MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2021

Appeal Ref: APP/A1910/W/20/3256852

Highlands, Kings Road, Berkhamsted HP4 3BP

- 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 and Mrs A Wilton against the decision of Dacorum Borough Council.
 - The application Ref 20/00964/FUL, dated 22 April 2020, was refused by notice dated 16 June 2020.
 - The development proposed is the construction of a detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a detached dwelling in accordance with the terms of the application Ref 20/00964/FUL, dated 22 April 2020, subject to the conditions set out in the attached Schedule.

Procedural matter

2. A new version of the National Planning Policy Framework was published on 20 July 2021. Both of the main parties to the appeal have confirmed that they have no additional comments in regard to this change in national policy.

Main issue

3. The main issue is the effect of the proposal on living conditions at neighbouring properties, in terms of the impact on outlook.

Reasons

4. The appeal site is the back garden of Highlands, a detached bungalow which is part of a short row of dwellings sitting in a backland position within a suburban residential area. These properties are on sloping ground, up a steep hill from Kings Road. The proposal is to build a new house in Highlands' back garden, with an area to the front of that dwelling as its retained outdoor space.
5. In addition to Highlands, about 6 other dwellings back more or less directly onto the appeal site, which provides a green space in the middle of these houses, contributing to their outlook, views of the sky and sense of openness. A previous

appeal¹ for a house here was dismissed due to the impact on outlook from these properties.

6. That appeal scheme also included extensions to Highlands, including the addition of first floor accommodation. The Inspector found no objection to those extensions and the Council has now granted a separate planning permission² for them.
7. In line with the comments of the previous Inspector, no one has a right to a view, but outlook from neighbouring dwellings near to a development should not be unduly obstructed or unacceptably harmed by overbearing or visually dominant development. The plans for the proposed new house have been substantially reduced compared to the appeal scheme, dropping the height of the main 2 storey section and reducing the rear wing to a single storey. In re-assessing the impact on outlook following these changes, I take into account that there are high hedges on the key boundaries, but note that their retention at current heights cannot reasonably be guaranteed in the longer term.
8. On the uphill side there are clear views from the first floor windows of 10 Oxfield Close over the top of the existing hedge so that the new house would be highly visible. The combination of the difference in ground levels, the relatively low height of the proposed new dwelling and the wide separation distance means, however, that this revised proposal would not be overly dominant on views from that property.
9. To the rear, the drop down to a single storey greatly reduces the impact on outlook from houses at Newbury Grove. Although those houses are set lower than the appeal site, the low height of the rear section of the new house and the adequate spacing would sufficiently mitigate any harm to outlook.
10. On the other side the houses at Kings Road are also set well down from the appeal site. The 2 storey side wall of the new house would largely be screened by the existing hedge, but would become much more visible if the hedge was to be lowered or removed in the future.
11. The most significant impact would be on the rear elevation and garden of No 65, which would look directly towards the new side wall. The lowered height and reasonably narrow width of this part of the structure, together with the separation distances between the wall and No 65's main accommodation would, however, be sufficient to limit any impact on that property's outlook to acceptable levels. The new wall would occupy only a minor section of the overall outlook from No 65 and would not be overly dominant on those views. As the impacts on other Kings Road houses would be less than that on No 65, those would also be acceptable.
12. I conclude in respect of the main issue that the proposal would not unduly or unacceptably affect living conditions at neighbouring properties in terms of the impact on outlook. It therefore accords with the aims of policies CS11 and CS12 of the Dacorum Borough Council's Core Strategy 2006–2031, to ensure quality development that avoids visual intrusion to surrounding properties.

¹ APP/A1910/W/19/3230140

² 19/03248/FHA

13. I have also taken account of other comments made by the Parish Council and neighbours. I find no reason to object to further backland development in an area which is characterised by such development. Neither the Council (on this appeal) nor the previous Inspector found any objection to the increased density of development or the new garden sizes, which appear to me to be reasonable. The modern design of the new house would be acceptable within this context, where existing development is varied in character and where views of the new house from nearby streets would be limited. The house has been designed to limit overlooking or loss of privacy to neighbouring properties, subject to conditions as set out below, and would have comparatively little effect on the natural light to those properties. Finally, I see no significant impact on neighbours from a minor increase of traffic on the drive and the use of the new parking/manoeuvring area to serve a single dwelling.
14. I have considered the Council's suggested conditions and have amended them in places in line with the advice in the Planning Practice Guidance. I impose a condition specifying the relevant plans and documents to provide certainty and to require compliance with the submitted levels and tree protection details. Further approval of materials is necessary as the choice of materials would be important to the quality and appearance of the development and insufficient detail is included with the application. Conditions preventing the use of a flat roof as a balcony and the obscure glazing of one particular side window are needed to protect the privacy of neighbours. Another window suggested for obscure glazing by the Council is far enough away from the neighbours' gardens that it does not need to be included.
15. A condition is justified, exceptionally, to remove permitted development rights³ for most extensions and some alterations due to the close relationship of the approved house to neighbours. This means that planning application(s) would be required so that the impact on neighbours and any other planning considerations can be considered. This condition does not need to remove all of the permitted development classes suggested by the Council because more minor alterations and the construction of outbuildings should not be so harmful as to justify this type of restriction. Furthermore, a restriction of Schedule 2 Part 1 Class AA rights for the construction of extra floors is not necessary as regulation AA(1)(c) confirms that this allowance does not apply where a dwellinghouse was constructed after 28th October 2018 - as would be the case here.
16. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should succeed.

Les Greenwood

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 plans and documents: 20/263/PL/100, 20/263/PL/101,

³ Town and Country Planning (General Permitted Development)(England) Order 1995 (as amended).

20/263/PL/102, 20/263/PL/103, 20/263/PL/104, 20/263/PL/105, Planning Design and Access Statement dated April 2020, Tree Survey Report dated 29 March 2018 and Preliminary Tree Protection Plan DS29051701.04 dated 30 March 2018.

- 3) The external surfaces of the building hereby permitted shall be constructed in accordance with a schedule of materials submitted to and approved in writing by the local planning authority.
- 4) The flat roof on the curved section of the southern elevation above the entrance of the building hereby approved shall not at any time be used as a balcony or raised platform.
- 5) The window at first floor level of the north-western side elevation of the dwelling hereby approved (shown on drawing 20/263/PL/104 as serving the master bedroom) shall be permanently obscure-glazed and non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor of the room in which the window is installed.
- 6) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any Order amending or re-enacting that Order with or without modification) no development falling within the following classes of the Order shall be carried out without the grant of express planning permission: Schedule 2 Part 1 Classes A or B.