

Appeal Decision

Site visit made on 15 November 2021

by Andrew Dale BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th November 2021

Appeal Ref. APP/J1915/D/21/3282663
104 Cowper Crescent, Hertford SG14 3EB

- 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 Lee Burnham against the decision of East Hertfordshire District Council.
 - The application ref. 3/21/1140/HH, dated 29 April 2021, was refused by notice dated 25 June 2021.
 - The development proposed is described on the application form as "*Removal of garage building, part single, part two storey side & rear extension*".
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Decision

1. The appeal is dismissed.

Preliminary matters

2. A Tree Preservation Order seems to cover the woodland with a mix of evergreen and deciduous trees beyond the rear (western) boundary of the appeal site. The application form confirms that no trees or hedges will need to be removed or pruned in order to carry out the proposed extension. I see no reason to disagree.
3. In the planning policies section of the Delegated Officer Report there is mention of an "Adopted Neighbourhood Plan" which I have taken to be the Bengeo Neighbourhood Area Plan. The parties have not sought to rely on this document and it is plain that the most relevant policies of the development plan are to be found in the East Herts District Plan (EHDP) 2018.
4. The Council's questionnaire suggested that in order to ascertain the impact of the proposed extension on the amenities of neighbouring occupiers, an Inspector may wish to view the side and rear of the appeal property and stand on the driveway of 102 Cowper Crescent. However, in line with the contribution made by the appellant at section G1 of the appeal form, I was able to reach a decision on the appeal by viewing from various vantage points on public land.

Main issues

5. The main issues are the effects of the proposed extension upon the character and appearance of the locality and upon the amenities of the neighbouring occupiers at 102 Cowper Crescent with regard to the potential for any overbearing effects and loss of outlook.
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Reasons

6. The appeal concerns a 2-storey, semi-detached house in an established residential crescent which sweeps round off 2 junctions with The Avenue and presents a varied street scene of houses, bungalows and chalet bungalows. Whilst the crescent does not possess any outstanding urban architecture, it is nonetheless a pleasant residential area, with its western side in the vicinity of the appeal site benefitting from the attractive backdrop of the protected woodland as viewed in the gaps between the properties. There is such a view between nos 102 and 104 at the present time.
7. No. 102 is the semi-detached bungalow to the north of the appeal property. They are separated from each other by their adjoining narrow drives which serve garages towards the rear. The building line of no. 104 is set slightly in advance of the one at no. 102. This added to the single-storey built form of no. 102 results in the north-facing flank wall of the appeal property being particularly noticeable when approaching along the crescent from the north.
8. The proposed scheme would add substantial bulk and mass to that northern side elevation to the extent that it would undoubtedly and inappropriately challenge the dominance of the front elevation. The design does not seek to break up that mass and bulk. The 2-storey part of the side and rear extension would not be set down from the roof ridge at the front or be set back from the front elevation or be set in along the side to retain the existing rear roof hip and a semblance of the original rear wall plane. The single-storey part of the side and rear extension would extend across the full depth of the 2-storey part of the extension, reach up to the shared boundary with no. 102 and include a mono-pitched roof which would be somewhat taller than the garage building which is to be removed.
9. The extension would appear as an insufficiently subservient addition to the existing dwelling especially in public views from the north. The partial infilling of the gap between nos 102 and 104 in the manner proposed would detract from the welcome spaciousness in the residential layout hereabouts and from the appreciation of the attractive woodland to the rear which positively contributes to the street scene. The adjacent bungalow has a modest and low physical presence. Given the proximity of the proposed built development, the slightly advanced building line of no. 104 and the mass, height and bulk of what is proposed, the bungalow at no. 102 would appear somewhat overwhelmed by the development. This would be disruptive to and detract from the character and setting of both properties.
10. I find on the **first main issue** that the proposed extension would harm the character and appearance of the locality. As the development would have a size, scale, mass and siting that would be disrespectful of and inappropriate to the character, appearance and setting of the existing dwelling and the surrounding area and would not generally appear as a subservient addition to the host dwelling, there would be conflict with the aims of Policies DES4 and HOU11 of the EHDP.
11. With regard to the second main issue, I noted the 4 windows in the opposing southern side elevation of no. 102 but even if I had been able to stand on the driveway of that property, I would not have been able to be sure about

whether they were primary windows to habitable rooms. The Council has not secured this information during the processing of the application. The appellant has not thrown any light on this matter. The occupiers of no. 102 did not respond to the neighbour consultation exercise conducted by the Council at the time of the application.

12. The extent of the glazing across the side elevation is notable. The neighbouring occupiers there would inevitably experience some overbearing effects and some diminution of outlook from inside the rooms served by those windows. However, if those windows serve non-habitable rooms or are minor, secondary windows to habitable rooms, it would be very difficult to reach a finding that the scheme would have significant detrimental impacts on the amenity of those occupiers, which is the test set by Policy DES4 of the EHDP.
13. Had the appeal turned solely on this issue, I would have taken steps to secure additional information, possibly by arranging an access required site visit to the appeal property and to look inside no. 102. As it is, I am dismissing the appeal on the basis of my finding on the first main issue that I have set out above and that would remain the case even if I had been able to make a clear and positive finding in favour of the appellant on this second main issue. As things stand, I have decided to make a neutral finding on the **second main issue**.
14. I have noted the planning history of the site insofar as it has been presented to me. It is apparent that 2 planning applications in 2007, relating to different proposals to extend the appeal property, were refused with one of the schemes being subsequently dismissed on appeal. I have not been provided with the relevant plans or the appeal decision so it is difficult to make any informed comparisons with what is now proposed, let alone consider whether or not those decisions involved flawed thinking. Moreover, the development plan framework has changed since that time. I have reached a decision on this appeal based on the planning merits of the case, the written material put before me, the circumstances of the site and its surroundings and current, relevant development plan policies.
15. The appellant has pointed to a number of side extensions which have resulted in reduced spacing between various houses along Cowper Crescent. I saw several of these examples on my site visit but I do not have the full planning history of these cases before me and not all of them are necessarily good examples to follow. A more relevant comparison would arguably be with those situations where a house stands alongside a bungalow such as at nos 70/72, 81/83, 86/88, 93/95 and 94/96. All those situations provide for more appropriate spacing between the contrasting built forms thus offering better preservation of the character and setting of each property than would be the case if the appeal scheme was to be built.
16. Permitted development rights represent a fallback and a material consideration when considering the planning merits. However, there is no clear evidence before me, such as a certificate of lawful proposed development or fully worked-out plan drawings of an alternative scheme, to suggest that a larger, identical or even a very similar extension project could take place using the permitted development rights that would be available. Embarking on permitted development rights, under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, would be unlikely to produce

something less desirable than the development that has been proposed in the application the subject of this appeal.

Conclusion

17. My finding on the first main issue is decisive to the outcome of this appeal. There is conflict with the development plan. The harm cannot be mitigated by the imposition of planning conditions and it is not outweighed by other material considerations. For the reasons given above and taking into account all other matters raised and the absence of objections from local residents and the Town Council, I conclude that this appeal should not succeed.

Andrew Dale

INSPECTOR