



Appeal Decision

Site visit made on 5 January 2022

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25TH January 2022

Appeal Ref: APP/N1920/W/21/3279249

35 Horizon Place, Studio Way, Borehamwood, WD6 5FP

- 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 Ms Alison Curtis against the decision of Hertsmere Borough Council.
 - The application Ref 21/0897/FUL dated 23 April 2021, was refused by notice dated 18 June 2021.
 - The development proposed is construction of an attached 3-bed dwelling to end of townhouses.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have utilised the Council's description of the development as per the decision notice as I feel it more concisely describes the development.
3. Since refusal of this application the revised National Planning Policy Framework (the Framework) was published on 20th July 2021. The Framework does not, of course, change the starting point for determination as being the Local Plan in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004. Given the main issues to be considered within this appeal I do not find that this revision to the Framework impacts upon the basis of determination. In any case key references within this appeal with regard to the Framework (the presumption in favour of sustainable development) remain the same.
4. The 2021 Housing Delivery Test (HDT) Results were published on 14th January 2022. Both parties have been given the opportunity to comment on these results with regard to their impact, if any, upon this appeal.

Main Issues

5. The main issues are the impact of the proposal upon i) the character and quality of the area and ii) the living conditions of existing and future occupiers with regard to private external amenity space.

Reasons

Character and quality of the area

6. The appeal site is a town house located within Horizon Place which is a relatively new, modern, residential development. The site is characterised by rows of terraces and townhouses of consistent, uniform, design and finish. The

- site located at the end of a row of townhouses, adjacent to Studio Way with the pedestrian access from this road running immediately adjacent to the site.
7. At the time of my site visit I parked on Studio Way and viewed the site from varying points on Studio Way including to the South as well as when approaching from Rutherford Close to the North. The proposal would create an end of terrace townhouse which would protrude beyond the established building line of Horizon Place which, as a development pattern, I find is neatly contained with a consistent distance between built form and Studio Way. This is notable both when on site as well as within the submitted plans before me.
 8. I note that the built form of Rutherford Way does extend closer to Studio Way (no. 42 as labelled on the site location plan ref: 21025). There is also substantial landscaping between the two sites as noted in the appellant's statement. As a result of this I found that Rutherford Way and Horizon Place are not essentially visually linked as a result of the overall dominance of Horizon Place itself which creates a strong building line (as a result of it being a substantial new development with consistent design). The difference in design, brick colour and site levels as well as the tree lined boundary to the North which creates visual separation.
 9. The existing dwelling within the appeal site is set back a distance in the region of 8m from the pavement on Studio Way and thus the existing space would be reduced, by the proposal, to 2.4m from the pavement. I find this to be a notable step forward of the existing building line for Horizon Place which would create a projection forward when viewed from the South along Studio Way and within Horizon Place itself. I note the four storey development opposite, including Goldwyn House, as well as other examples noted by the appellant. I do not, however, find that there would be sufficient step back from the highway in the case of the appeal proposal. I find it would appear visually dominant and an awkward addition on the end of the row projecting forward of the existing building line.
 10. The existing space is a visual break between the road and the development and is, I find, part of the character of the area as one of the qualities which distinguish the area. Inclusion of a flank wall in such close proximity to the pavement, in comparison to the space on site now, would look out of character and present as a cramped form of development between the end of the existing row and the boundary wall to Studio Way which would detract from the street scene. As a result of these factors I find that the proposal would not maintain the existing pattern of development in the area.
 11. The proposal would not improve the character or quality of the area and would inappropriately alter the relatively recently approved urban design, of the original residential development that is Horizon Place, and reduce the separation and set back that was incorporated into the original design and layout. This would not be consistent with the Draft Planning and Design Guide 2016 (SPD) which notes that garden land development should be refused where it does not respect the existing development pattern or where it creates a cramped form of development.
 12. The proposal would be contrary to Core Strategy 2013 (CS) Policy SP1 and CS Policy CS22 which both seek to ensure high quality design that takes advantage of opportunity to improve the character and quality of an area. The proposal would also be contrary to Site Allocations and Development

Management Policies Plan 2016 (SADM) Policy SADM3 which requires that proposals be of a scale and design which respect its immediate surroundings including the local pattern of development and SADM Policy SADM30 which seeks to ensure development recognises and complements the local character of an area and respects, enhances or improves the visual amenity of the area.

13. The proposal would also be contrary to the Framework paragraph 130 a) which aims to ensure that developments add to the overall quality of the area and c) which seeks to ensure that developments are sympathetic to local character.

Living conditions of existing and future occupiers

14. At the time of my site visit I noted that the existing site boundary, adjoining Studio Way, is bound by a notable brick wall¹ which was presumably constructed to ensure appropriate levels of privacy for the gardens within this row which would otherwise be highly visible from the public domain due to the orientation. The appeal site levels are notably lower than the level of Studio Way which, from within the appeal site, would result in a notable brick wall boundary to the garden area of the proposed dwelling. I find that the brick wall as noted, combined with the proposed three-storey dwelling, tree lined boundary to the rear and site orientation would result in the proposed garden for the new dwelling feeling very enclosed and overshadowed for future occupiers of the proposal.
15. The SPD is clear in its requirement for 60 sq./m of rear garden for a three-bedroom dwelling and that this should in fact be exceeded wherever possible. The proposal would provide a 55.8 sq./m rear garden which is shortfall in the region of 4 sq./m. The SPD is noted to be guidance, should be applied with some flexibility and I find that a small shortfall in area in isolation may be acceptable depending on the facts of the case and quality of space provided. In this case the combination of the shortfall I find to be unacceptable given the quality of the space identified with regard to a sense of enclosure and overshadowing. The existing dwelling would also be left with a garden with a notable shortfall of 14 sq./m. As a result of these findings the proposal would create a poor form of development to the detriment of the living conditions of occupants of the existing and proposed dwellings as a result of failing to provide usable private external amenity space in accordance with the SPD.
16. I note the appellant's comment regarding previous guidance upon which the original Horizon Place development was assessed as well as the sizes of existing gardens within the locality. I note the SPD does outline scope for some flexibility relating to the prevailing character of an area. Whilst the proposed gardens may be comparable to existing gardens within the row of dwellings, in terms of size, I do not find the proposed garden space for the proposed dwelling in particular to be comparable usable space in terms of overall quality. This is due to the enclosure and shading I have identified above as a result of the proximity, mainly, to a 4.5m boundary wall.
17. The site is also stated to be within walking distance of Meadow Park which would provide some recreational opportunity for future occupiers and even if I had accepted the proximity to public open space to justify the identified shortfall in garden areas themselves, I do not find this overcomes the issue with regard to quality of the space provided for the reasons outlined. The

¹ Noted by the Council to stand at 4.5m tall

approach in paragraph 125 c) of the Framework is noted but this is dependent on there being acceptable living standards which I have found there not to be as a result of the combined factors outlined above.

18. The Council did not raise matters regarding structural implications of the proposal within their original assessment or refusal reasons but the appellant has had chance to comment upon the Council's claims within this appeal. I have before me drawing no. 3631-1001 P3 (External Works General Arrangement) which shows a Log Roll Retaining Wall which does appear to encroach notably within the appeal site when comparing this to the submitted site location plan in terms of proposed footprint. I find that this does cast further doubt as to actual useable garden space for the appeal proposal. Additionally I have no evidence as to how the raised elements to the side could be removed without impacting upon the structural integrity of the site, adjoining Studio Way and the access stairs which I would consider to be a key element to ascertain whether a dwelling could be accommodated within the appeal site as proposed.
19. I would assume, due to the notable difference in site levels between the appeal site and Studio Way, these external works shown on the plan were agreed as part of the proposed development for a specific reason. It could also explain why no further plot was built on the space within the appeal site to enable such structural boundary works to be accommodated. Despite this, even if the Council had not raised the aforementioned structural issues (or indeed I found such matters could have been appropriately considered via condition) I would still have found the proposal to fail to provide appropriate garden space for the proposed dwelling.
20. The proposal would be contrary to CS Policy SP1 which seeks to ensure a healthy living environment for residents and CS Policy CS22 which requires high quality design and the creation of attractive and usable spaces. The proposal would also be contrary to SADM Policy SADM3 due to the impact (reduction in garden) of an existing satisfactory residential unit and SADM Policy SADM30 which requires a limited impact upon the amenity of occupiers of the site. The proposal is also contrary to the SPD guidance in relation to rear gardens/amenity space as outlined above.

Planning Balance

21. Both parties are in agreement that the Council cannot demonstrate a five-year housing land supply and I also note that the Council has achieved 88% in the 2021 HDT results. As a result of the above I find that this requires that permission should be granted, unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole in accordance with paragraph 11 d) ii) of the Framework.
22. The proposal would deliver an additional dwelling. This would make a limited and modest contribution to the overall supply of housing in the area which is acknowledged to be in a sustainable location. I afford this contribution of a single dwelling limited weight in that it is a contribution to housing and the Framework does acknowledge the part small sites can play in helping to meet housing demand. There would be some economic benefits during construction, but these would be short term, and future occupiers may contribute to the local economy but as stated, with one additional dwelling similarly I afford these

benefits limited weight. I have taken into account the appellant's comments with regard to the 2021 HDT results.

23. Most notably I find that the proposal would negatively impact upon the character and quality of the area and would provide development which I find would be detrimental to the living standards of future occupiers as a result of the proposed garden space, overshadowing and enclosure. The proposal would not therefore fulfil the environmental or social objectives of sustainable development as a result of these adverse impacts. The environmental and social impacts identified mean that overall I find that the adverse impacts would significantly and demonstrably outweigh the limited benefits of a single dwelling when assessed against the policies in the Framework taken as a whole.
24. I acknowledge that the Framework seeks to encourage use of underutilised land, however, there is no real evidence before to suggest that site is not appropriately utilised in its current form and layout when taking into account the matters identified within this appeal decision. In any case utilisation of sites as appropriate should not be to the detriment of the character of the area or the amenity of existing or future occupiers.

Other Matters

25. I note a number of objections to the proposal within both the original application and within this appeal. Comments are noted within regard to parking and traffic issues, however, County Highways as a statutory consultee have not objected to the proposal on such grounds. I have no evidence before me to support refusal based upon highways matters. The construction phase for a single residential dwelling would not be prolonged, however, such matters (including maintaining uninterrupted site access) could be controlled via condition through a construction management plan.
26. General inconvenience is not a material planning consideration which falls within the scope of this appeal. Private matters relating to management agreements, planting and restrictive covenants are private, legal, matters which do not fall within the scope of this appeal.

Conclusion

27. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR