



Appeal Decision

Site visit made on 6 December 2022

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th January 2023

Appeal Ref: APP/P1940/W/22/3302152

Willows, 62 Clements Road, Chorleywood WD3 5JT

- 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 Mrs M Zelenskaya against the decision of Three Rivers District Council.
 - The application Ref 21/2749/FUL, dated 30 November 2021, was refused by notice dated 1 April 2022.
 - The development proposed was originally described as demolition of existing single storey dwelling, alteration to roof, windows and doors from prior approval ref 21/1510/PDT.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises of the demolition of the existing dwelling and the construction of a new two-storey dwelling. The proposed dwelling includes roof accommodation served by a rear recessed dormer with balcony, rooflights and first floor rear balcony. The Council dealt with the proposal on this basis and so shall I.
3. I have also had regard in this appeal decision, and in accordance with Paragraph 30 of the National Planning Policy Framework, 2021 (the Framework), to the Chorleywood Neighbourhood Plan (CNP), made 2020. The Council have provided the CNP as part of their appeal submission.
4. A screening direction was issued under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In exercise of the powers conferred by Regulations 14(1) and 7(5) of the EIA Regulations, the Secretary of State directed that the development is not EIA development.

Main Issue

5. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

Character and appearance

6. The appeal site relates to a detached bungalow and its associated gardens. The site is located at the end of a cul-de-sac consisting of detached dwellings, which are positioned on a hillside. The plot falls away from the road level to the existing bungalow and then from the bungalow down to the rear garden. The level of the appeal site is lower than the road and lower than the dwellinghouse opposite, but slightly higher than the adjacent property.
7. Most of the dwellings on this road including the existing dwelling are single storey. Several of the dwellings have rooms in the roof and some on the opposite side of the road have split level accommodation. There is a variety in design, some variety in materials, but all of the dwellings have a fairly consistent roof pitch and shape, and a horizontal emphasis to the fenestration patterns.
8. The proposed new dwelling would be two-storey, with rooms in the roof, associated rooflights and a recessed dormer with balcony. The new dwelling would be taller than the bungalow which it is to replace and taller than the adjacent dwelling. I saw at my site visit that the existing bungalow is visible from the road and from further down the hill, as you approach the site. As such the height of the proposed dwelling would be visible from the public viewpoints on the road.
9. Furthermore, although the existing dwellings step down the hillside, there is currently a regular drop in the roof heights as the properties step down in ground level. This stepped roof level contributes positively to the character of the street scene and the wider area. The proposal would result visually in a notable step up in the roof levels, and the proposed roof height would be out of keeping with the existing street scene and cause harm to the character and appearance of the area.
10. The proposed dwelling would also have a steeper pitched roof than that of the existing bungalow and neighbouring dwellings. The Design and Access Statement details that the roof pitch is changing from 35 to 45 degrees to provide symmetry. However, the a-symmetry and the pitch of the roof of the existing dwelling are part of the current positive character of the area. The change to a 45-degree pitch would be out of keeping with the street scene. Furthermore, the roof height and shape of the proposal would also result in an increase in the scale and mass which results in a form which is not part of the current context of the area.
11. Moreover, the design of the windows in the appeal scheme are purposely designed to be taller than the windows in the existing dwelling. These windows are intended to provide greater levels of light to the rooms. However, the shape of the window has resulted in a vertical emphasis which is not apparent in the existing street scene. The design of the windows would therefore also be out of context with the character of the existing dwellings.
12. The appellant has sought to argue that the windows will not be visible from the road due to the level change and the existing trees. I saw the level changes on my site visit, but also that the existing dwelling was visible from the road outside the site and from further down the hill. I consider that the windows

would be clearly visible from the street. However, even if the windows were not visible from the road this would not justify a design detail which is out of keeping.

13. The appeal proposal would also be visible from the public views along Windermere Close and the allotments between Windermere Close and Clements Road. The proposal would draw the eye more than the existing dwelling due to the increase in height, change in roof shape and also the different proportions of the fenestration.
14. Overall, the height, roof pitch and design result in a dwelling with greater vertical emphasis, scale and massing than the other dwellings on the street. The proposal does not respect the appearance, detailing or rhythm of the existing street scene. As such the appeal proposal is not in keeping with the character and appearance of the area and results in harm.
15. For the reasons given above, I conclude that the proposal would harm the character and appearance of the area, contrary to Policy CP12 of the Three Rivers District Council Local Development Framework Core Strategy 2011, Policy DM1 and Appendix 2 of the Three Rivers District Council Local Plan Development Management Policies Local Development Document 2013 which, amongst other matters, require development to maintain, protect and enhance the quality of the built environment and to respect and make a positive contribution to the character of the street scene, particularly with regard to roof form and position, and the style of windows.
16. The proposal would also be contrary to Policy 2 of the Chorleywood Parish Council Chorleywood Neighbourhood Development Plan 2020 which aims to ensure that development is sympathetic to the street scene and enhances the Special Characteristics of the Parish.

Other Matters

Biodiversity

17. The site is approximately 4km from Frogmore Meadows Site of Special Scientific Interest (SSSI). The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must, before any grant of planning permission, make an appropriate assessment (AA) of the project's implications in view of the relevant conservation objectives. However, as I have found the proposal to be unacceptable for other reasons, it is not necessary for me to undertake an AA, nor to consider this matter further. For the avoidance of doubt, even if I had done so and identified no adverse effect, it would not have affected my overall conclusion on this appeal.
18. The proposed development has the potential to directly impact on the habitat of protected species through the removal of the existing dwelling. An objection was made by Herts & Middlesex Wildlife Trust advising that the building is suitable for bats; is in close proximity to high value feeding and roosting habitat; and that there are records of bats in the vicinity. The Council considered this objection and advised a precautionary informative be used,

having taken advice from their Ecology specialist. However, Circular 06/2005¹ states that *"it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision"*.

19. Therefore, without substantive evidence before me, including any ecological survey, and having regard to Circular 06/2005, I cannot be certain that any harmful effects arising from the proposal, in regard to bats, could be adequately avoided or mitigated. Nevertheless, I have dismissed the proposal on the harm to the character and appearance, and as such the impact on biodiversity would be a future consideration on any alternative proposal before the Council.

Fallback

20. Both main parties agree that there is an extant Prior Approval (Council reference 21/1510/PDT, dated August 2021) for extensions and alterations to the existing bungalow to form a two-storey dwelling. Plans have been submitted to show the outline of the approved alterations compared to the current proposal and there are similarities in the footprint and overall ridge height. However, the design of the prior approval scheme followed the design of the existing bungalow, especially with regard to the design of the windows and the roof pitch and shape. Overall, the fallback position respected the appearance of the existing dwelling and the street scene and would be less harmful than the appeal scheme. As such, does not justify the proposal and the resultant harm to character and appearance, therefore I have given this matter limited weight.

Benefits

21. The appellant has referred to environmental and economic benefits of building a new dwelling. These include improving the occupant's wellbeing with greater levels of light within the rooms at the front of the dwelling; more efficient use of the land; and improved energy efficiency. Nevertheless, the rooms on the front of the new dwelling, a bedroom, bathroom and music room would be constrained by the change in levels and trees. Furthermore, views of the skyline are not so restricted as to justify the size of the windows and the harm to the character of the area.
22. The energy efficiency benefits of the design are not quantified in the appellant's evidence and, I accept that a new dwelling would be more energy efficient through modern building techniques. However, this does not justify the harmful design nor scale of the proposal.
23. Overall, the social and economic benefits are limited and relate more to the personal preferences of the appellant. There would be little public benefit arising from the proposal. Moreover, the benefits do not outweigh the environmental harm I have found to character and appearance.

Equalities

¹ ODPM Circular 06/2005: Government Circular: Biodiversity and Geological Conservation – Statutory Obligations and their impact within the planning system.

24. Although the appellant is not seeking to argue that the development is required for anyone with protected characteristics under the Equalities Act, the appellant has advised that the existing dwelling is not suitable for occupation by elderly or disabled persons, due to the location at the top of a hill and the steep changes in levels within the site. However, there is no substantive evidence before me that this would be the case.
25. Nonetheless, I have had due regard to the Public Sector Equality Duty set out under s149 of the Equality Act 2010. The harm caused by the proposed development is not offset by any benefits of the proposed scheme, in terms of eliminating discrimination against a person with the protected characteristic of age, advancing equality of opportunity for that person or fostering good relations between them and others. I conclude that it is proportionate to dismiss the appeal.

Conclusion

26. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole, including the CNP, and the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townsend

INSPECTOR