



Appeal Decision

Site visit made on 11 May 2023

by J D Westbrook BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 June 2023

Appeal Ref: APP/A1910/W/22/3310230

37A & 39 Highfield Road, BERKHAMSTED, HP4 2DD

- 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 Leigh Pretty against the decision of Dacorum Borough Council.
 - The application Ref 22/01897/FUL, dated 6 May 2022, was refused by notice dated 15 August 2022.
 - The development proposed is the construction of a home office and garden store within rear garden area.
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Decision

1. The appeal is allowed and planning permission is granted for the construction of a home office and garden store within rear garden area at 37A & 39 Highfield Road, BERKHAMSTED, HP4 2DD, in accordance with the terms of the application, Ref 22/01897/FUL, dated 6 May 2022, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) With the exception of the proposed office window and garden store door shown in each side elevation on the Ground Floor Plan, the development hereby permitted shall be carried out in accordance with the following approved plans: 2205/01A, Location Plan, Block Plan.
 - 3) The outbuildings hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwellings known as 37A and 39 Highfield Road, and shall not be independently occupied or used for commercial purposes.
 - 4) The windows in the rear elevation of the outbuildings hereby permitted shall be permanently fitted with obscured glass and non-opening below a height of 1.7 metres above floor level, unless otherwise agreed in writing by the Local Planning Authority.

Procedural Matter

2. From the information before me, it would appear that the proposed Ground Floor Plan drawings submitted with this scheme are identical with those of a previously permitted scheme, and show an office window and garden store door in each of the side elevations. However, the windows and doors do not

appear in the Flank Elevation drawings and, given the significantly reduced height of the elevations in the current scheme, it would not, in any case, appear possible for these elements to be included as part of the building. On the basis that all other information at my disposal would indicate that these particular elements are not intended as part of the proposal, I have, therefore, specifically excluded them from the condition that relates to development being in accordance with the approved plans, in interests of consistency and clarity.

Main Issues

3. The main issues in this case are the effects of the proposed outbuildings on:
 - The character and appearance of the area around Highfield Road and Curtis Way, and
 - The living conditions of the occupiers of neighbouring properties by way of outlook and privacy.

Reasons

4. The appeal properties are mid-terraced dwellings which front directly onto the pavement on the eastern side of Highfield Road. No 39 has a long rear garden, while No 37A is a ground-floor flat with a shorter rear garden and an area of retained land beyond. No 37 is a flat situated above No 37A. The land slopes down Highfield Road from south to north, and it also slopes down the appeal site from west to east. The site lies within the Berkhamsted Conservation Area (CA).
5. The proposed development would involve the construction of an attached pair of identical outbuildings at the rear of the sites of Nos 39 and 37A. These are shown as comprising an office, garden store and toilet in each building. The buildings would have a shared pitched roof with a ridge height of 4.2 metres, and height to eaves of 1.8 metres on the northern side and around 1.3 metres on the southern side. The appeal property already benefits from a recent planning permission for a similar attached pair of buildings. The only difference between the drawings of the approved buildings and the current scheme would appear to be the variations in roof design and associated heights of ridge and eaves. I take this earlier permission as a significant fall-back position. At the time of my visit, building work was already underway at foundation and lower wall levels.
6. Policy CS11 of the Council's Core Strategy (CS) indicates that development should respect the typical density intended in an area and enhance spaces between buildings and general character. Policy CS12 indicates that development should avoid visual intrusion and loss of privacy and disturbance to the surrounding properties, and should respect adjoining properties in terms of layout, site coverage, scale, height, bulk, and materials.
7. The Council contends that, due to the scale, siting and design of the proposed building, it would be unduly prominent, incongruous, and overbearing and would result in visual intrusion for adjacent properties Nos 35 and 41 Highfield Road and No 34 Curtis Way. In addition, due to the scale and design of the building it would appear dominant and cramped, and would not be in character with the surrounding area in this context. Finally, due to the topography around the property, the siting of the building and the excessive amount of fenestration would result in overlooking for Nos 37 and 35 Highfield Road.

8. The appellant contends that the proposal is for a variation to the roof of the approved home office and garden store that has already been granted planning permission in November 2021 (Ref. 21/02958/FUL). Moreover, the floor plan layout, size and site positioning remain identical to the approved scheme, while the elevations would be constructed out of the same materials. The current scheme would replace the permitted flat roof with a pitched roof which, although higher at the ridge, would be lower at the eaves, close to the boundaries with neighbouring properties to each side.

Character and appearance

9. The Council has accepted that the character and appearance of the CA would not be adversely affected by the development; that the layout is acceptable; that site coverage is not excessive; and that it would not be visible from the Highfield Lane street scene. I concur with these conclusions and agree that the scheme would preserve the character and appearance of the CA.
10. By way of its impact on the immediate surrounding properties, the Council considers that the building, with the pitched roof as now proposed, would be highly visible over the fences of adjacent properties and, in particular, it would be visually intrusive for the occupiers of No 34 Curtis Way, which is at a lower level and only some 10 – 12 metres away. However, I note that the proposed structure would be seen largely within a very wide gap between Nos 34 and 35 Curtis Way, and that the ridge of the building would be lined approximately with the boundary between those two properties. On this basis, it would not lie immediately behind either of the two houses. Moreover, although the ridge would be around 1.2 metres higher than the earlier approved scheme, the eaves would be lower, such that the apparent bulk of the building would, arguably, be reduced.
11. The height to the eaves of the proposed building would be lowered from the previously permitted scheme to a point at or below the level of the existing boundary fences and this would reduce the visual impact of the building when seen from neighbouring dwellings on each side. On this basis, and given that the footprint would remain the same as that earlier scheme, I do not consider that the proposal would appear dominant or cramped, and it would not be out of character with the surrounding area in this context.

Living conditions

12. Due to the topography of the area, the appeal site is set a little above the level of the neighbouring Nos 35 Highfield Road and 34 Curtis Way. With regard to No 35, the eaves of the proposed building would be lowered to a level approximately level with the top of the boundary fence. Moreover, the pitched nature of the proposed roof, sloping away from the boundary, would reduce the prominence and visual impact of the building when compared that of the previously approved scheme. Similarly, as stated above, although the ridge would be around 1.2 metres higher than the earlier approved scheme, the eaves would be lower, such that the apparent bulk of the building, as seen from No 34 to the rear, would not be increased and could arguably be said to be reduced, particularly as the highest point at the ridge would be set in the middle of the wide gap between the two houses behind.
13. With regard to fenestration, the full-height glazed panels/door in the western elevations of the proposed building would have a small, triangular element

added in the centre, but would have a similarly triangular element to the side removed by virtue of the lowered eaves. Overall, I consider that there would be a neutral impact as a result of this proposed change. In addition, the proposed rooflights would be set in the low pitched roof, some distance back from the side elevation, and would not appear excessive in this form and position.

14. The windows in the rear elevation that serve the proposed WCs in the building would be set some distance away from the rear elevations of the houses in Curtis Way to the rear and at an angle. Any potential for overlooking can be dealt with by way of a suitable condition, and I have added a condition accordingly.
15. Finally, I note that the rear elevation of the adjacent No 35 is set well back from the rear elevation of No 37A and even further from the proposed building. Since there would be little or no adverse impact resulting from the minor amendments to the fenestration details from those of the fallback position, I do not consider that the proposal would be harmful to the living conditions of the occupiers of No 35 by way of visual intrusion or overlooking, nor do I find that the proposed scheme would result in any additional harm to the privacy of the occupiers of No 37.

Conclusion

16. I find that the proposed scheme would not be harmful to the character or appearance of the area around Highfield Road and Curtis Way, nor would it be harmful to the living conditions of the occupiers of neighbouring properties by way of outlook and privacy. On that basis, it would not conflict with Policies CS11 or CS12 of the CS. Accordingly, I allow this appeal.

Conditions

17. I have attached a condition relating to plans because it is necessary that the development shall be carried out in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. I have also attached a condition restricting use of the building to uses ancillary to that of the host properties in the interests of protecting the residential amenities of the occupiers of neighbouring properties that might otherwise arise from a significant intensification of use. Finally, I have added a condition relating to the windows in the rear elevation in the interests of the residential amenities of the occupants of the adjacent dwellings to the rear by way of privacy.

J D Westbrook

INSPECTOR