



Appeal Decision

Site visit made on 25 July 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 21st November 2023

Appeal Ref: APP/C1950/W/23/3317489

6, The Brambles, Hertfordshire, Welwyn, AL6 0PG

- 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 J Thurley against the decision of Welwyn Hatfield Council.
- The application Ref 6/2022/1646/FULL, dated 12 July 2022, was refused by notice dated 6 September 2022.
- The development proposed is the erection of a detached two bedroom dwelling.

Decision

1. The appeal is dismissed.

Procedural Matters

2. Following the determination of the application by the Council, a new local plan was adopted on 12 October 2023, which superseded the Welwyn Hatfield District Plan 2005. As the Welwyn Hatfield Local Plan 2023 is now the Statutory Development Plan for the Borough, I have determined the appeal on this basis. The main parties had an opportunity to comment on this change in circumstances during the appeal process.

Main Issues

3. The main issues are:
 - the effect of the proposed development upon highway safety, with regard to the integrity of surrounding land and structures.
 - the effect of the proposed development on the character and appearance of the surrounding area; and
 - the living conditions of future occupiers, having particular regard to outlook.

Reasons

Highway Safety

4. The appeal site is a small strip of land lying between 6 The Brambles and a planting strip, which includes an acoustic fence and trees. This strip runs alongside the A1(M) road, which carries four lanes of traffic and is part of the Strategic Road Network. The appeal site encompasses a high embankment which rises around 4m from the appeal site up to the A1(M). At the top of the embankment is an acoustic fence, which is around 3m high. To provide the space necessary for the new dwelling, it is proposed that the embankment is

- excavated. Additionally, a retaining wall would be formed around 4m in height, which would run almost the length of the appeal site.
5. The Council considered that there was insufficient information to demonstrate that the cutting back of the embankment and the formation of the retaining wall would not have an unacceptable impact on highway safety, through consequent land instability issues. Prior to the determination of the planning application, National Highways requested an outline structural design of the retaining wall for their approval, and confirmation that the structural integrity of the acoustic fence would not be undermined by the proximity of the retaining wall.
 6. Given the proximity of the embankment to the A1(M), its status as a strategic road, and the nature of the works proposed, these details are essential to ensure that any potential harm to highway safety can be mitigated to an acceptable degree. No such information has been submitted for consideration.
 7. I note that the appellant considers that pre-commencement conditions could be used to secure the full design and engineering details necessary to ensure the integrity of the fence and the embankment. However, the grant of planning permission would fix the position of the wall, its height, and its position in relation to the acoustic fence, the embankment and the road. Such a condition could only be appropriate if it secures the details of works which have already been assessed as being acceptable in principle, which is not the case here.
 8. In weighing the limited evidence before me, the balance of risk in this proposal, from my own observations on site, and for the other reasons above, I cannot but conclude that the proposed development would result in an unacceptable impact on highway safety, contrary to Policy SADM2 of the Welwyn Hatfield Local Plan 2023 and the Framework.
 9. The Council's reason for refusal also alleges a conflict with Policy SADM12 however, this policy relates to parking, servicing and refuse. Accordingly, it has little direct bearing on this issue.

Character and Appearance

10. The appeal site is located at the end of a cul-de-sac of dwellings, which are of similar dimensions, age and design. It is comprised of shrub and other light vegetation, and a small side access path which contains a low brick wall. The dwellings in the street are fairly high density but are separated by single storey garage links. This, separation together with the open plan frontages, provides the street a somewhat spacious, suburban character.
11. The proposed development would introduce a new two bed dwelling between No 6, The Brambles and the A1(M) boundary land. The plans indicate that it would be of a similar design to the existing dwellings in the locality, specifically in terms of style, size and its building line.
12. Regarding location, the appeal site currently functions as a barrier, bringing relief between the domineering presence of the A1(M) and the dwellings in this residential area. Similar gaps can be observed at other comparatively positioned properties in the vicinity. By infilling this space, the proposed development would erode the value of the appeal site as a gap. In contrast to

existing developments, the dwelling would not be separated from No 6 by a garage, and so would be uncharacteristically close to No 6 and therefore appear cramped. It would also introduce additional, tightly packed domestic paraphernalia to the site, such as parking, and waste storage facilities. Even with planting, the retaining/living wall, together with the acoustic fence, would present as a large, engineered structure uncomfortably close to the new dwelling, extenuating its confined appearance. As such, the proposal would detract from the suburban character and appearance of the street scene, by introducing visibly cramped development into a confined space.

13. In relation to the plans submitted with this appeal and the limitations of the appeal site, there is no evidence before me that the appellant's ownership of the woodland to the rear of the appeal site would mitigate the issues I have identified above.
14. In conclusion, the proposed development would harm the character and appearance of the surrounding area. It would not relate well to the surroundings and local distinctiveness, contrary to Policy SP9 of the Welwyn Hatfield Local Plan 2023. It would not be sympathetic to local character, including the surrounding built environment, contrary to the Framework.

Living Conditions – future occupiers

15. The proposed development would be bordered on one side by the 'retaining wall and living wall', where it is directly adjacent to the A1(M). At the top of this wall, would be a further fence. The cumulative height of these structures would be significant and almost reach the ridge line of the proposed development itself. They would also run almost along the entire length of this side boundary, ending near where the trees are located towards the rear of the appeal site.
16. From the rear amenity space of the proposed development, the perceived height of these immediate structures would be significant. I recognise that this amenity space would be of a sufficient size for the proposed number of occupiers. Also, that the 'living wall' feature, and the trees at the rear of the appeal site, would soften the visual sense of containment to an extent. Nonetheless, the sheer scale of the surrounding structures means that they would remain dominant and oppressive, resulting in significantly low levels of outlook.
17. In conclusion, the proposed development would have an unacceptable effect on the living conditions of future occupiers, with particular regard to outlook. The design of the proposed development would not create a sense of safety and security that is consistent with achieving welcoming places, contrary to Policy SP9 of the Welwyn Hatfield Local Plan 2023. It would also not provide a good standard of amenity for buildings and external open space, contrary to SADM 11 of the Welwyn Hatfield Local Plan 2023. It would not promote health and well-being, contrary to the Framework.

Conclusion

18. I have found that the appeal scheme would be contrary to the development plan as a whole. No material considerations have been demonstrated which would outweigh the conflict. Therefore, for the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR