



Appeal Decision

Site visit made on 18 December 2023

by Chris Couper BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/X0415/W/23/3320961

**Hunters Green, Nightingales Lane, Little Chalfont, Buckinghamshire
HP8 4SR**

- 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 Professor Darzi against the decision of Buckinghamshire Council.
 - The application Ref PL/22/3688/FA, dated 4 November 2022, was refused by notice dated 23 February 2023.
 - The development proposed is described as demolition of the existing dwelling and the erection of a new replacement residential dwelling, associated garaging, minor alteration to the existing access, and new landscaping.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and the erection of a replacement residential dwelling, associated garaging, minor alteration to the existing access, and new landscaping at Hunters Green, Nightingales Lane, Little Chalfont, Buckinghamshire HP8 4SR, in accordance with the terms of the application, Ref PL/22/3688/FA, dated 4 November 2022, subject to the conditions on the attached schedule.

Procedural Matters

2. The Planning Inspectorate Procedural Guide: Planning Appeals – England (December 2023) states that the appeal process should not be used to evolve a scheme, and that what is considered by the Inspector should be essentially the same as that considered by the Council and interested parties at the application stage.
3. In this case, amended drawings were submitted to the Council during its consideration of the application. However, the Council states that as the changes did not address its concerns, and given alleged inaccuracies in the drawings, it based its decision on the originally submitted drawings.
4. The appellant responds that the amended drawings were not inaccurate, and that the alleged discrepancy was due to the ground floor of the proposed house being lowered by 150mm below the existing floor level. The drawing no 2217-P-06 B submitted with the appeal clarifies the levels. Compared to the original submission, the amended drawings depict a reduction in the length of the front projecting garage with staff accommodation above, a reduction in the height of the proposed house, and the substitution of wooden entry gates for wrought iron gates.

5. I have had regard to the issues raised by the Council and interested parties, and I have taken into consideration that the amended drawings were submitted to the Council at application stage. In the context of the site and the scheme as a whole the changes are relatively modest, and they reduce the scale and bulk of the proposed development compared to the scheme on which the Council based its decision. I am therefore satisfied that my acceptance of the amended drawings would not prejudice anyone involved in the appeal.
6. Finally, the revised National Planning Policy Framework was published in December 2023 ('the Framework'). Having regard to the main issue in this appeal and the evidence before me, there are no substantive changes to the relevant parts of it compared to the now superceded version.

Main Issue

7. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

Character and appearance

8. This part of Nightingales Lane has a distinctive character, with large detached houses, which are set well back from the highway on spacious plots. The buildings are of an individual design, in a variety of generally mock historic styles. Whilst most can be at least glimpsed from the road, particularly from their access points, mature trees and other vegetation provide a semi-rural, verdant and secluded setting. The area is identified by the Council as displaying a Woodlands Road character typology and is designated by it as an Established Area of Special Character ('ASC').
9. The existing house at Hunters Green is finished in red brick and clay tiles. It has an elongated 'L' shaped footprint, with a front projecting wing close to the neighbouring house, Rosella. Its bulk and mass are limited due to its low eaves, with dormers set into that eaves line, and others serving the attic space above. In terms of its individuality, it is typical of the area, but in other regards I agree with the appellant that its design is relatively nondescript.
10. The Council's and the appellant's calculations of the proposed dwelling's eaves and ridge heights differ by 15cm, possibly due to the ground level alterations. However, irrespective of that slight discrepancy, it is clear that the principal part of the proposed replacement dwelling, as shown on the amended drawings, would have a much taller eaves than the one it would replace, and it would have a far greater vertical emphasis.
11. The Council maintains that the height and scale of the building would give it a bulky appearance, which would be at variance with other dwellings in the vicinity. However, I note that it would be set well in from the boundaries of this large, well-landscaped plot, such that any differences would not be generally apparent from public or private vantage points. Additionally, notwithstanding its crown roof, the main part of the proposed dwelling would not be much deeper in profile than the main part of the house at Rosella.

12. Moreover, the appellant has provided drawing nos 2217-P-10 and 2217-P-11 comparing the proposed front elevation here, with other houses in Nightingales Lane. The replacement dwelling at Abbots Lea is a little distance from this site, outside of the ASC, and in a part of the lane which is more rural in character, such that the context is somewhat different to here. I also note the Council's claim that those two drawings are misleading, as the permitted houses at Rosella and Briarwood have a ridge height of 9.1 metres compared to its calculation of a 9.4 metre ridge height here. However, in the context of the overall building heights and the spacious plots, that 0.3 metre difference is very small. Even if the Council's calculation is correct, this scheme would not be perceptibly taller than other buildings in the vicinity.
13. The proposal includes a front projection which would provide garaging at ground floor and staff accommodation above. This would be closer to the front of the plot than the property's existing front projection, and closer to it than an approved, but unimplemented, garage on the site (Ref: PL/20/2458/PA). Nevertheless, it would still be set well back from Nightingales Lane, and given dense landscaping it would only be glimpsed in the streetscene.
14. Additionally, whilst that front projection would include areas of flat-roof, it would have a relatively low height. That, together with its largely blank northern wall, would help to give it a subordinate appearance, with the main focus being the taller, and much more ornate, front face of the main house beyond. Additionally, I observed on my visit, that subordinate front projections, often with accommodation in their roofspace, are a common feature on this part of Nightingales Lane, with nearby examples at Rosella, Burleigh Grange and The Manor House.
15. Although the proposed dwelling would also have a long rear projection, it would be discretely sited in the back garden and it would have a low roof, which would help to limit its mass. It would also project less far to the rear than an approved, but unbuilt, rear extension in this location (Ref: PL/19/4099/FA).
16. For these reasons, the proposed dwelling would not have an incongruous scale or bulk. Additionally, given its symmetry, form, and its detailing, with prominent chimney stacks and regularly spaced sash windows, the proposal would display the features and appearance of a classical 'Queen Anne style' house. With its red brick and clay tile finish, it would therefore fit in with the other mock historic, traditionally-styled houses which are so typical of Nightingales Lane.
17. Although solid wooden gates were originally proposed at the entrance, the amended drawings depict iron gates instead. These would be permeable, allowing glimpses through to the house beyond, and they would therefore reflect the prevailing characteristics of the lane. Having regard to the existing and proposed site plans (drawing nos 2217-P-01 B and 2217-P-02 A) there would not be a significant difference in the amount of hard surfacing in the front garden. Large areas of landscaping, which are such an important component of the ASC, would be retained.
18. Summing up, and irrespective of whether or not the planning permissions for extensions to the existing house remain extant, the scheme would not harm the character and appearance of the area. It would not therefore conflict with

Policies GC1 and H4 of the Chiltern District Local Plan 1997 (including alterations adopted 2001) Consolidated 2007 and 2011, or Policy CS20 of the Core Strategy for Chiltern District 2011 ('CSCD'). Amongst other things, these require a high standard of design that reflects and respects the surrounding area and features which contribute to local distinctiveness, having regard to matters such as scale, height, siting, form, plot characteristics, and design detailing; and require proposals to avoid damage to an ASC's special character.

19. I am satisfied that the scheme is well-designed and based on a sound understanding of its context, in accordance with the advice in the National Design Guide; and that it would be visually attractive, sympathetic to local character, and would help to maintain a strong sense of place, in accordance with paragraph 135 of the Framework.

Other matters

20. The proposed first floor outdoor rear terrace would be fairly small and located centrally within the plot, with a significant gap to the side boundaries. Notwithstanding the proposed removal of Cypress trees close to Rosella (and which are described as Category C trees in a fair/poor condition in the submitted Arboricultural Report), significant landscaped screening would remain, and there would not be a harmful degree of overlooking from that terrace towards Rosella's garden.
21. Finally, the scheme includes a slight widening of, and other alterations to, the existing access. However, having regard to the concerns expressed by an interested party, no additional entrance is proposed.

Conditions and Conclusion

22. Turning to the matter of conditions, I have considered those suggested by the Council and other parties against the Framework's tests. As well as the standard time limit, in the interests of certainty, a condition is necessary requiring that the development be carried out in accordance with the approved plans.
23. The Framework sets out that conditions that are required to be discharged before development commences should be avoided, unless there is clear justification.
24. In this case, in accordance with Section 100ZA(5) of the Act, I have sought the appellant's agreement to one such condition, requiring the submission and approval of a landscaping plan. This is necessary as a pre-commencement condition due to the importance of landscaping to the character and appearance of the ASC, and as existing features could be harmed from the outset of development. As my condition also requires the submission of tree and hedgerow protection measures, the Council's suggested condition No 11 is unnecessary.
25. My condition No 4 requires the implementation of that landscaping plan and the planting of replacement trees or plants where necessary. The Council's suggested condition No 12 would prevent many works from being undertaken to existing trees or hedgerows for a period of 5 years. This would be an

- unreasonable restriction on the occupiers, and given the requirements of my condition Nos 3 and 4, it is unnecessary.
26. In the interests of the character and appearance of the area, a condition is necessary requiring the submission and approval of all facing materials.
27. In the interests of the convenience and safety of highway users, my condition No 6 requires parking and manoeuvring areas to be provided in accordance with the approved plans.
28. My condition Nos 7, 8 and 9 are necessary in the interests of ecology and biodiversity; my condition No 10 is necessary in the interests of surface water drainage; and having regard to CSCD Policies CS4 and CS26 my condition No 11 is necessary in the interests of the sustainable use of water resources.
29. The Council has suggested a further condition removing all permitted development rights under Classes A to F of Part 1 of Schedule 2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 ('GPDO'). It states that this is necessary in order for it to consider whether any future proposals would be detrimental to the character of the area and neighbouring properties.
30. I have no details of the Direction under Article 4 of the GPDO referenced in the Council's delegated report. However, paragraph 54 of the Framework sets out that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. Having regard to the size of the plot, and the distance of the proposed development from the side boundaries, I am not persuaded that such a blanket restriction on permitted development rights is justified, or necessary in order to make this development acceptable. I have not therefore imposed it.
31. Having regard to a neighbour's representation, I note that the west elevation in the main part of the proposed house includes windows at first and second floor level. However, these would serve a stairwell, which is not a habitable space where occupants would typically dwell to enjoy an outlook. Consequently, it is not necessary that they be obscurely glazed in order to protect the adjacent occupiers' living conditions. However, additional windows above ground floor level in the flanks of the dwelling facing adjacent plots could result in significant overlooking and loss of privacy to adjoining occupiers. Thus, there is clear justification for my condition No 12 which removes permitted development rights for such windows.
32. The Council has suggested a pre-commencement condition requiring the submission of a plan, including cross sections as appropriate, to show finished slab and floor levels. However, as drawing no. 2217-P-06 B depicts the ground, first and second floor levels of the proposed building, and its roof level, and my condition No 2 requires the development to be carried out in accordance with the approved plans, such a condition is unnecessary.
33. The proposed alterations to the access point are relatively minor and the details are clearly depicted on the submitted drawings; and I have not been provided with the guide note "Private Vehicular Access within the Public Highway", to which the Council's fifth suggested condition refers. In its

consultation response the Highway Authority notes that Nightingales Lane is subject to a 30mph speed limit, and that the proposal would not result in a significant increase in vehicular movements on to it. Consequently, I am not satisfied that the Council's suggested condition No 5 is necessary for the safety and convenience of highway users.

34. I have no evidence that the existing dwelling is subject to a condition removing permitted development rights for means of enclosure within 5 metres of the highway. Given my findings above, along with the requirements at Schedule 2, Part 2, Class A of the GPDO, and that this scheme is for a replacement dwelling which, unlike the existing arrangement, includes provision for vehicles to draw well clear of the highway, I am not persuaded that the Council's suggested condition No 7 is necessary in the interests of highway safety.
35. In conclusion, the scheme would not harm the character and appearance of the area. It would not conflict with the development plan, and having regard to all other matters raised, including representations by interested parties, the appeal is therefore allowed.

Chris Couper

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2217-P-01 B, 2217-P-02 A, 2217-P-04 A, 2217-P-05 A, 2217-P-06 B, 2217-P-07 A, 2217-P-08 A and 2217-P-09 A.
- 3) No development shall commence until there shall have been submitted to, and approved in writing by, the local planning authority a scheme of landscaping. The scheme shall include indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
- 4) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwelling or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species.
- 5) Prior to the commencement of works above slab level, details or samples of the proposed facing materials and hard surface material to be used for the external construction of the development hereby permitted shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details.
- 6) Space shall be laid out within the site for the parking of cars, and loading and manoeuvring, in accordance with the approved plans. This area shall be permanently maintained for this purpose.
- 7) The development shall be implemented in accordance with the agreed protected species reasonable avoidance measures as set out in the Preliminary Ecological Appraisal and Bat Surveys report by Udall-Martin Associates Ltd, October 2022.
- 8) Prior to the commencement of the development above ground level, details of artificial roost features, including bird and bat boxes, and any proposed boundary fences with holes at ground level to enable the movement of hedgehogs, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall proceed in accordance with the approved biodiversity features, which shall be installed prior to the first occupation of the development and retained thereafter.
- 9) No external lighting shall be fixed to the building hereby permitted, nor shall any lighting be installed within the site, unless details of the lighting, including position, type of lamp and illumination level, have been submitted to, and approved in writing by, the Local Planning Authority.

- 10) All new hard surfacing within the site must be made of porous material or provision must be made to direct run-off from the hard surface to a permeable or porous area or surface within the site.
- 11) The dwelling hereby approved shall be constructed to meet, as a minimum, the higher standard of 110 litres per person per day using the fittings approach as set out in the 'Housing: optional technical standards' guidance and prescribed by Regulation 36(2)(b) of the Building Regulations 2010.
- 12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no windows/dormer windows other than those expressly authorised by this permission shall be constructed above ground floor level in the side elevations of the dwelling.