



Appeal Decisions

Site visit made on 30 April 2024

by V Simpson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2024

Appeal A Ref: APP/A1910/D/23/3332110

7 Olivers Close, Potten End, Hertfordshire HP4 2SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Y Sutton against the decision of Dacorum Borough Council.
 - The application Ref is 23/01330/FHA.
 - The development proposed is the retention of replacement and additional raised decking and installation of privacy screen.
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Appeal B Ref: APP/A1910/D/23/3335244

7 Olivers Close, Potten End, Hertfordshire HP4 2SL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Ms Y Sutton against the decision of Dacorum Borough Council.
 - The application Ref is 23/02040/RET.
 - The development proposed is described as the retention of replacement raised decking and installation of privacy screen.
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Decisions

Appeal A

1. The appeal is allowed and planning permission is granted for raised decking and installation of privacy screen at 7 Olivers Close, Potten End, Hertfordshire HP4 2SL in accordance with the terms of the application, Ref 23/01330/FHA, subject to the following conditions:
 - 1) Except where required by condition 2, the development hereby permitted shall be carried out in accordance with the following approved plans: location plan dated 02 June 2023 and drawing number 001 dated May 2023.
 - 2) Unless within 2 months of the date of this decision a scheme for the design and materials to be used for privacy screening identified on drawing number 001 dated May 2023 is submitted in writing to the local planning authority for approval, and unless the approved scheme is implemented within 2 months of the local planning authority's approval, the use of the development shall cease and all equipment and materials brought onto the land for the purposes of such development shall be removed until such time as a scheme is approved and implemented.

If no scheme in accordance with this condition is approved within 6 months of the date of this decision, the use of the development shall cease and all equipment and materials brought onto the land for the purposes of such development shall be removed until such time as a scheme approved by the local planning authority is implemented.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Appeal B

2. The appeal is dismissed.

Preliminary Matters

3. As set out above, there are 2 appeals on this site. Both schemes include raised decking to the rear and side of the house at number 7 Olivers Close (number 7), but they differ in their detail and extent. While I have considered each scheme on its own merits, to avoid duplication, and except where otherwise indicated, the 2 schemes are dealt with together.
4. The application forms indicate that both schemes have been completed. Nevertheless, while accepting that works common to both schemes have been undertaken, based on my observations on site, neither scheme has been completed.
5. In appeal A, I have altered the description of the proposal within the formal decision to omit words that do not form an act of development. Furthermore, given that the previous decking has been removed from the site, words related to it have also been omitted.
6. In appeal B, a privacy screen was cited within the description of development on the application form and indicated on one of the original plans submitted in support of the application. However, an amended plan was submitted to the Council before the application was determined. Upon this plan, the privacy screen was omitted. Following the refusal of the application, the appellant has indicated that they would be willing to install a privacy screen as originally indicated. However, within the Government's Procedural Guide: Planning appeals – England, it is indicated that the appeal process should not be used to evolve a scheme, and that it is important that what is considered by the Inspector at appeal is essentially the same as that was considered by the Local Planning Authority and by interested parties at the application stage. Therefore, given that the privacy screen was not shown on the plans upon which the Council's decision was made, this appeal is determined on the basis that such a screen does not form part of the scheme.

Background and Main Issue

7. The appeal site is within the Green Belt. However, insofar as they relate to the Green Belt, the Council has indicated that the appeal schemes, would not conflict with either policies CS5 or CS6 of the Dacorum Borough Council Core Strategy 2006-2031¹ (the Core Strategy), or the Green Belt protection policies contained within the National Planning Policy Framework (the Framework). No compelling evidence has been put before me, from which to conclude otherwise.

¹ Dacorum Borough Council Core Strategy 2006-2031 Adopted 25 September 2013

8. As such, in both appeals the main issue is the effect of the development proposals on the living conditions of the occupiers of number 8 Olivers Close (number 8), with particular regard to outlook and privacy.

Reasons

9. The attached houses at numbers 7 and 8 both have pleasant and sizable gardens, which slope down and away from the rear elevations of the dwellings.
10. In the case of appeal A, a 1.8m privacy screen is proposed on the parts of the decking that are on or close to the shared boundary with number 8. Such screening would prevent users of both levels of the decking from being able to see into the sections of the garden at number 8 which are closest to the house and which include decking and outside seating areas. The screening would also prevent a harmful loss of privacy for the occupiers of number 8 within their open-plan kitchen/dining room.
11. While views of the lower and/or mid sections of the rear garden at number 8 would be variously possible from the decking and the steps in both appeals, I have no reason to doubt that these areas of the garden are already visible from the rear windows of the house at number 7. Furthermore, on the basis that the steps are reasonably likely to be used for access rather than for idling purposes, any views from them over the property at number 8 would be no more than fleeting. Their use would not therefore result in a harmful loss of privacy for the occupiers of number 8, within either their house or rear garden.
12. In the case of appeal B, users of the elevated decking on the appeal site, would have clear views of much of the rear outside spaces at number 8, as well as into the nearby glazed openings serving the kitchen and dining room of that house. In terms of privacy, this would cause harm to the living conditions of the occupiers of number 8.
13. The amount of built form that would be visible through glazing in the rear of the house at number 8, and, from within the associated rear outside spaces, would be increased as a result of both appeal schemes. Nevertheless, both developments project significantly less than half of the length of the shared rear boundary between the appeal site and number 8. Furthermore, in the case of appeal A, the lower level of the decking would be stepped away from the shared boundary. For these reasons, those parts of the developments that would be visible above the boundary fencing from the property at number 8 would not be oppressive in such views. Nor would they result in a harmful sense of enclosure within either the house or garden at number 8. Instead, occupiers of number 8 would continue to retain a good and fairly open outlook, over the length of their sizable garden and the countryside beyond, from within both their house and garden.
14. For the reasons given, in respect of appeal A, the development would not cause harm to the living conditions of the occupiers of number 8 Olivers Close, with particular regard to outlook and privacy. Consequently, and in respect of this main issue, the development complies with policy CS12 of the Core Strategy. Amongst other things this policy requires that development should avoid visual intrusion and loss of privacy, and, to respect adjoining properties in terms of a range of matters including; layout; scale; height; bulk; and, amenity space. It also accords with the part of paragraph 135 of the Framework which requires

development to create places with a high standard of amenity for existing users.

15. In appeal B, the development would cause harm to the living conditions of the occupiers of number 8, with particular regard to privacy. While it would not cause such harm in respect of outlook, this is a neutral consideration. Accordingly, the development conflicts with policy CS12 of the Core Strategy which requires that development should avoid visual intrusion and loss of privacy. It also conflicts with the part of paragraph 135 of the Framework which requires developments to create places with a high standard of amenity for existing users.

Other Matters

16. The evidence indicates that the appeal site is within the zone of influence of the Chilterns Beechwood Special Area of Conservation (SAC). The SAC supports a range of habitats including; beech forest woodlands; semi-natural dry grassland and scrubland on Calcareous substrates; and, stag beetles, all of which qualify under the Conservation of Habitats and Species Regulations 2017 – as amended. Recreational pressures are identified as a risk to the integrity of the SAC and its qualifying features. Given that the schemes would not result in any increase in dwellings or occupiers, there would be no increased recreational pressure on the SAC. Consequently, neither of the appeal schemes, either alone or in combination with other plans or projects, would have a likely significant effect on the SAC.
17. Whether or not the developments would be affixed to parts of the property at number 8 is a private matter to be resolved between the parties at numbers 7 and 8.
18. I have not been advised of any policy requirement requiring the need for the developments to be demonstrated. Even if the reinstatement of decking requires planning permission, I must determine the acceptability of the schemes that are before me.
19. The rear of the house at number 8 is close to north-facing. As such, both it and the outside space near the rear of it, are likely to be in shadow for large parts of the day. Nevertheless, the rear garden-facing glazing that is within the open-plan kitchen/dining room of number 8, contribute to providing a reasonable level of daylight within this room. I do not doubt that for a relatively short period of the morning, the amount of sunlight in both the kitchen/dining room and the outside space close to the rear of the house would be reduced as a result of the development subject of appeal A. However, from the evidence before me, any such small reduction in sunlight, and associated small reduction in daylight, would not materially alter the living conditions available to the occupiers of number 8 in this respect.
20. It is regrettable if occupiers of neighbouring properties were not consulted and invited to make representations regarding the developments before works were undertaken on site. However, this consideration does not lead me away from my previous findings regarding the acceptability of the schemes.
21. A number of other concerns have been raised. These include those related to the effect of the development on property prices, and, on the living conditions of the occupiers of other nearby properties. Whilst I take these matters

seriously, I have not been presented with compelling evidence from which to conclude either that harm/s would be caused, or, that if harm/s would result, these should be accorded more than very minimal weight.

Conditions

22. In appeal A, for clarity a condition is imposed which identifies the plans to which the permissions relate.
23. Also in appeal A, a condition regarding the proposed privacy screening is imposed. This requires additional details regarding the design and materials to be used in the privacy screening to be agreed upon by the Council, as well as the timely implementation and subsequent retention of such screening. This is to prevent unacceptable harm being caused to the living conditions of both current and future occupiers of number 8, with particular regard to privacy.

Conclusions

24. For the reasons given above, and having regard to the development plan as a whole and any other relevant material considerations, appeal A should be allowed.
25. The development subject of Appeal B conflicts with the development plan when taken as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm. Appeal B should therefore be dismissed.

V Simpson

INSPECTOR