



Appeal Decision

Site visit made on 12 June 2024

by D Szymanski BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2024

Appeal Ref: APP/C1950/W/23/3331093

57 New Road, Digswell, Welwyn AL6 0AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Nick Brister of Hawksbury Homes Digswell Ltd against Welwyn Hatfield Council.
 - The application Ref is 6/2023/0163/FULL.
 - The development proposed is part demolition of existing property and erection of 5 no. 4 bedroom houses with associated internal access roads, parking and refuse/recycling collection.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since the appeal was lodged, the Welwyn Hatfield Local Plan (2023) (the WHLP) was adopted, replacing the Welwyn Hatfield Local Plan (2005). The Council and Appellant have had the opportunity to comment upon this through the appeal process, which I have taken into account in determining the appeal.
3. The appeal is lodged due to the Council's failure to give notice of its decision within the prescribed time period. It subsequently advised it would have refused permission, setting out a putative reason for refusal. It states it would have found the proposal out of keeping with the character and appearance of the area, which I have had regard to in setting out the main issue below.

Main Issue

4. The main issue is the effect of the proposed development upon the character and appearance of the area.

Reasons

5. Though plots and buildings vary in size and architectural style, the area is characterised by generously sized dwellings and detached single apartment blocks, of generally 2 – 3 storeys typically with pitched or crown roof forms, often set well within their plots, addressing the highway. Many buildings are set quite deep within well-treed plots giving filtered visibility of them, and those which have more limited vegetation are generally viewed within the wider Sylvain and semi-rural backdrop.

6. Such characteristics are typical of sub-area C in the Digswell Character Appraisal (2004) (the DCA) within which the appeal site appears to be an above average plot size. However, it is not experienced solely in this context. Nearby sub-areas C1, part of B and B1 include cul-de-sacs with dwellings on very generous (but smaller) plots, with buildings positioned well within them, generally relating well to those neighbouring, facing towards the highway, viewed within the context of individual and groups of mature trees. Therefore, the site is viewed in a more mixed context than sub-area C.
7. The appeal site is adjoined by large residential plots with detached dwellings, the highway and a maturely treed nature reserve. The site includes a detached dwelling set within a large an undulating and sloping plot, comprising lawned garden areas and a considerable number of trees and shrubs of varying age, size and species. The plot layout and size, and the number and variety of trees, means the appeal site is in keeping with, and makes a positive contribution to the character and appearance of the area.
8. The proposed development would result in a highly intensive and uncharacteristic form of development from a terrace of 3no. 3/4 storey and pair of link detached 3/4 storey dwellings either side of the part retained host dwelling, related plot subdivision front to rear and associated boundary treatments and paraphernalia. They would be served by a driveway is in parts rather wide, and loops from one side of the plot to the other, running almost all the depth of the plot, which would contribute to the intensity and spread of development and is also uncharacteristic of other developments I saw.
9. Notwithstanding the highway facing side windows, the absence of a front door on the side elevation, the position of the three front doors, integral garages and plot layout would mean the terrace would not resemble a single detached dwelling or apartment building that fronts the highway. Instead, it would be clearly read as a perpendicular terrace at right angles to the prevailing plot pattern, and dwelling orientation in relation to the public highway.
10. The built development might be regarded as maintaining a reasonable distance from some boundaries and Council appears to have permitted developments that intensify the amount of on-plot development nearby. However, the combination of the proposed number and size of houses, number of storeys, the development spread, layout, the perpendicular orientation, plot sizes would be very strident and harmfully at odds with the pattern of development in the locality. Visual breaks and spacing would provide little mitigation of this.
11. Despite some variety, the nearby buildings are generally of relatively traditional construction, forms, appearance, materials and pallet. The new dwellings would include a relatively high proportion of glass, framed within a limited amount of brickwork, some metal cladding, dark timber and stacked stone, under either pitched roofs integrating a high proportion of dormer windows, or a partially flat/partially arched rolled metal and sedum roofs forms.
12. The architectural appearance would be jarring, and clearly and harmfully at odds with prevailing appearance of built development. Moreover, the arrangement would result in three distinct dwelling types across the site. The differing forms and shapes of each group/style, means they would not relate well to one and other, exhibiting a lack coherence. I am not satisfied the harm could be adequately mitigated by suitably worded planning conditions within the scope of this appeal scheme.

13. Screening can reduce visual harm, but does not necessarily mean an absence of harm, or absence of conflict with policies. Much of the loss of 36 individual, 4 tree groups, part of 3 other groups and an ornamental hedge would be well within the site. However, a small number of proposed losses are quite close to the boundary. Despite the land level reduction into the site and the retention of much of the wooded frontage of protected¹ trees, the crown of one semi-mature tree is recommended to be raised, and two other semi-mature trees would be removed close to the access and a few smaller trees near to it.
14. For those not entering the site such as residents, visitors, or on business, despite proposed landscaping, much of the development would still be discernible from New Road around the access, increasing when deciduous trees are not in leaf. From the Appellant's AIA² and what I saw, the remaining trees south and north are of varying species and form. Though some are tall, some are also of a rather limited crown size and vigour. On land to the north some of the hedgerows are lower than the proposed buildings. Therefore, though there would be some filtering, the development would have some visibility from due north and south, more so when deciduous trees are not in full leaf.
15. The appellant suggests the DCA is not active supplementary planning guidance. Even if this is the case and though there has been changes in the area, it is a material consideration. It is of some use in defining local character and provides design guidance which may be flexibly applied and need not be treated as stringent rules. The proposal is at odds with some aspects of its advice. Moreover, from my assessment of the area on the ground and the evidence before me, the proposed development is clearly out of keeping with the character and appearance of the area, and I find it significantly harmful in this regard. In consequence, it is also in conflict with the development plan and the National Planning Policy Framework (2023) (the Framework).
16. I am referred to and noted other developments in the area. The bulk, massing and scale of new buildings and proportion of hardstanding at Nos 61 and Nos 63 – 65 might be sizeable. However, as single buildings addressing the highway set well-back in large plots, that could appear as single detached dwellings, the apartment buildings reflect some of area defining characteristics of the area. I note the Inspector's findings for No 40 New Road³, including upon the DCA and development plan aims. That apartment building replaced an existing dwelling, and it has the appearance of a detached dwelling.
17. The development grain at Harmer Dell, Mornington and Nos 62 – 64 New Road is finer than some parts of the area. However, the dwellings are, from what I could see, predominantly detached dwellings and buildings on quite generous plots that for the most part front or address the highway. They are very different to the appearance and layout of the appeal development. Though reference is made to a proposal next door at No. 55, the evidence indicates this has not been approved. None of the permitted developments and arrangements to which I have been referred nearby are directly comparable to the appeal proposal and do not justify allowing this appeal.
18. For the reasons set out above, the proposed development would be significantly at odds with and significantly harmful to the character and

¹ Ref. TPO 260 2002.

² Arboricultural Impact Assessment – 57 New Road, Digswell (April 2023 – 11367_AIA.001 Rev B)

³ Ref. APP/C1950/A/12/2168373.

appearance of the area. It would conflict with Policy SP9 of the WHLP, which requires that development is of a high-quality design that delivers a sense of place, relates well to its surroundings, to local distinctiveness, and respects character and context. Compliance with other aspects of the policy do not adequately mitigate or outweigh the harmful effects.

19. The proposal would also conflict with paragraphs 131, 135 and 139 of the Framework which seek high quality design that is sympathetic to local character and history including the surrounding built environment, maintains a strong sense of place, and states development that is not well designed should be refused, especially where it fails to reflect local design policies. The proposal conflicts with guidance in the Supplementary Design Guide (2005) which advises development should respond to building forms and patterns of existing buildings in the layout and design, to reinforce a sense of place.
20. Though the Council has referred to the proposal being in conflict with Policy SADM11 of the WHLP, the policy appears primarily aimed at ensuring satisfactory living conditions for future and neighbouring occupiers, so I find it of less relevance to this main issue than the policies I have referred to above.

Other Matters

21. I have noted the appellant's Preliminary Ecological Appraisal⁴. It is not fully clear how, if access cannot be achieved to a piece of nearby land, how the proposed development can ensure compliance with legislation and policies in respect of badgers. However, as I am dismissing this appeal for other substantive reasons, I have not sought further views in this regard.

Planning Balance

22. The adoption of the WHLP suggests there may not be a requirement to maintain a 5-year supply of deliverable housing sites (HLS), but the latest housing delivery test (HDT) measurement was below 75%. Therefore, the policies most important for determining the proposal are considered out of date, and permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
23. There would be a moderate temporary economic benefit during construction, and once constructed a moderate on-going benefit to the local economy, and support to local services and facilities. In-light of the Council's recent HDT results, and if I were fully accepting the appellant's assertion the Council's HLS is closer to 2 years, housing need should be regarded as acute. This proposal would meet a need for larger dwellings on previously developed land, in an area where house prices are high, affordability has worsened, and it would help to meet the Framework objective of significantly boosting the supply of homes.
24. The same magnitude of weight to the social benefits attributed in the Roundhouse Farm decision letter⁵ for 100 dwellings (including 45 affordable dwellings) is not justified for this very much smaller appeal proposal. Though the delivery of a net increase in 5 dwellings would be small, noting the need and the contribution such sites can make to supply as a benefit to meeting

⁴ Preliminary Ecological Appraisal and Preliminary Roost Assessment by Arbtech (dated 17 April 2024).

⁵ Appeal Ref. APP/B1930/W/20/3265925.

needs and improving social vitality, the social benefits attract moderate weight in favour of the scheme.

25. A high-quality landscaping scheme and long-term retention might result in some minor long-term landscape enhancement, attracting minor weight in favour of the scheme. The Biodiversity Net Gain proposals suggest a gain in area-based habitats of 47.91% in the longer term and hedgerow units of 22.21%. A benefit of this order attracts moderate weight in favour of the scheme. There might be some benefit to drainage, though there is little to suggest it would be anything other than a small benefit. It is not demonstrated energy and resource efficient design, and renewable energy generation, would result in an overall net benefit, so would be more of a neutral matter.
26. Compliance with policies in respect of the location of development, windfall sites, and the accessibility of services and facilities are neutral matters. Were I to agree the evidence demonstrated the proposals are or could be made compliant with policies in respect of matters such as the living conditions of future and neighbouring occupiers, parking and access standards, construction management, arboricultural protection, protected species, refuse and recycling storage and collection, these would be neutral matters in the balance.
27. The proposal would be significantly out of keeping with and significantly harmful to the character and appearance of the area. Even were the age and context the DCA was adopted in mean any conflict with it should attract limited or little weight, the proposal would still conflict with recently a recently adopted development plan policy and the Framework policies I have referenced, which seek a good quality contextually appropriate design of development. These are a very important matter. The conflict with the policies and the harm is of a high order, so this attracts significant weight against the scheme.
28. Overall, the policy conflicts and the harm to the character and appearance of the area, would be such that it significantly and demonstrably outweighs the benefits of the development when assessed against the policies of the Framework taken as a whole. Therefore, the appeal should not succeed.

Conclusion

29. The proposed development is contrary to the development plan read as a whole, and the Framework. There are no considerations advanced, including the policies of the Framework, which outweigh these findings. Accordingly, for the reasons given, the appeal should not succeed.

Dan Szymanski

INSPECTOR