



Appeal Decision

Site visit made on 25 June 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2024

Appeal Ref: APP/A1910/W/24/3337305

112 New Park Drive, Hemel Hempstead, Hertfordshire HP2 4QW

- 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 Mr & Mrs Jon Williams, on behalf of RLP Surveyors against the decision of Dacorum Borough Council.
- The application Ref is 23/01217/FUL.
- The development proposed is 2 duplex flats within residential rear garden development.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - the effect of the development on the character and appearance of the area;
 - whether the proposed development would provide appropriate living conditions for the occupiers of the proposed dwellings, with particular regard to external space and waste storage arrangements;
 - the effect of the proposed development on the living conditions of the occupiers of neighbouring properties, specifically 112, 112a, 112b and 110 New Park Drive and 37, 39 and 41 Masons Road, with regard to outlook, loss of sunlight and daylight and loss of privacy; and
 - the effect of the proposed development on highway safety, with regard to the adequacy of the access and parking arrangements.

Reasons

Character and appearance

3. The appeal site comprises a parcel of land to the rear of the gardens to 112, 112a and 112b New Park Drive. The land has been fenced off from the gardens of the existing dwellings but, from the evidence before me, previously formed part of the garden to those properties. The site sits next to a footpath linking New Park Drive with Masons Road.
4. The donor properties, along with 114 New Park Drive form an extended and subdivided pair of semi-detached houses within a residential area. There is a strong defined character to the area resulting from the planned estate which was part of the development of Hemel Hempstead as a new town. The houses are a mix of semi-detached, detached, and short terraces and with some variety in design, materials, and roof form.

5. There is also variety in the distance back from the road, and there are other houses that sit perpendicular to each other and close to neighbouring properties. However, the houses are all laid out in a clear pattern, facing the roads and this is part of the defining character of the area. The size of the rear gardens of the existing housing is also varied, due to the road layout. The length of the gardens is dictated by the undulating grid layout of the streets and that all the houses front the road. However, the appeal site is not an excessively or unusually large garden and is not dissimilar to the length of the garden of 110. Moreover, although the donor properties sit closer to New Park Drive than 116 and numbers upwards, they sit further back than 110 and the houses further along New Park Drive. Contrary to the appellants' assertion, the position of the donor properties, in relation to the road, has not resulted in the gardens being longer than others in the area.
6. The estate also includes footpath links including the footpath that runs from Leverstock Green Road to Maylands Avenue which passes along the side of the site between New Park Drive and Masons Road. There are other instances where these footpath links pass rear gardens of varying depths. All of the above factors, taken together, result in the area having a spacious and pleasant appearance which contributes positively to the character of the area.
7. The proposal is for two, duplex flats on the parcel of land behind the rear gardens of the donor properties. The proposed dwellings would face the footpath and be sited behind the houses on New Park Drive and Masons Road. Albeit introducing additional dwellings into an existing built-up residential area the layout of the proposed development would, therefore, not be in keeping with the road fronting layout of the surrounding housing estate and would not respect the layout of adjacent properties. I have not been made aware of any other developments, including considering all of the examples submitted by the appellants, which are built in a similar back land location and do not front a road.
8. Furthermore, the proposed development would be built close to the boundaries either side, with only a narrow path leading to the rear of the site. The front and rear gardens also appear to be shorter than any others in the immediate area and, in coming to this view I visited all of the other sites detailed in the appellants' statement and the original submission. Although there are other short gardens in the area, the site coverage and density of the proposal is materially different to the immediate area. Moreover, I have not been provided with any substantive evidence of developments where the overall layout around the property is as constrained as the proposal before me.
9. The appeal proposal would be gable fronting but, due to the width of the frontage, the gable would be wider than any of the other front gables in the immediate area. The width of the front and the different pitch of the roof from others in the area results in the building appearing wide and squat, as can be seen from the illustrations provided in the appellants' statement of case. Even if I accept that the roof forms in the area are varied, and even though the proposal is for a two-storey building in an area of two-storey buildings, the proposal would not respect the surrounding area in terms of its bulk and would not enhance the character of the area.
10. Furthermore, the development would be highly visible from the footpath and also visible from New Park Drive and Masons Road and the increased density

and out of keeping site coverage, scale, and bulk would be visually harmful. The cut away sections in the roof, to provide the outdoor space for the future occupants would also be visible from the footpath, as too would the proposed living wall, which is intended to replace the existing boundary hedge. A building inserted into this plot of land, of the scale proposed, would appear to be squeezed in as an awkward, ill-fitting, and cramped afterthought, not part of the planned estate surrounding it. Overall, the proposal would appear as an incongruous form of development which would not respect the layout, character, or appearance of the existing estate.

11. The living wall would be in an alien feature in the local area and would not respect the mainly brick built dwellings. Although the living wall would add some greenery to the area this would appear to float between the brick wall and boundary fence below and the roof, with its associated cut-out section, above. The addition of the living wall would not mitigate the loss of the existing hedge on the boundary and both the living wall, and the cut-out sections would be visually prominent from the footpath drawing attention to these features.
12. The finish brick and roof colour and the finish of the window frames and doors could be secured by condition. However, the living wall and the roof top balconies, which the appellants are relying on to provide outdoor space, are materials and details that are out of keeping with the surrounding area. These materials would not be able to be changed through a condition.
13. Albeit that policies within the local plan support new housing development in Hemel Hempstead and increased densities, the policies also require development to respect the character of the area. The proposed development would not achieve this policy aim as its layout and legibility would not reflect the design and character of the area.
14. For the above reasons, the proposed development would have an adverse effect on the character and appearance of the area contrary to Policies CS10, CS11 and CS12 of Dacorum's Local Planning Framework Core Strategy 2006-2031 (the CS). Collectively these policies seek to ensure that development provides a successful design, respects the typical density intended in an area, enhances spaces between buildings and general character, integrates with the streetscape character and respects adjoining properties in terms of, amongst other matters, layout, site coverage, scale, height, bulk, and materials.
15. For the same reasons the proposal would be contrary to Appendix 3 of the Dacorum Local Plan 1991-2011 (the LP) which, in summary, advises that the layout and design of residential areas should be guided by its immediate surroundings, respect the character of the area, respect the overall street scene, be of finishing materials in keeping with the surrounding area, and that there must be adequate space for the development, consistent with the area, without creating a cramped appearance.

Living conditions of future occupiers

16. The advice in Appendix 3 of the LP is that private gardens should normally be positioned to the rear of the dwelling and have an average minimum depth of 11.5m with a variety of garden sizes to cater for different family compositions, ages, and interests. Reduced garden depths may be acceptable for smaller starter homes or for infill developments where the garden depths are equal to adjoining properties. Generally, all gardens should be of a width, shape, and

size to ensure the space is functional and compatible with the surrounding area.

17. Although the proposal provides a reasonable total amount of outdoor space for each unit and the outdoor space provided on the roof would be functional, the rear garden depths fall significantly short of the 11.5m minimum advised in the LP. I acknowledge that there are other properties on the estate where the dwellings have gardens which are not 11.5m in length. Although I have not been provided with the precise measurements of these gardens, from my observations they are all longer than the gardens proposed within the appeal scheme. Moreover, the immediate adjoining properties have longer gardens and the proposed garden depths would not be compatible with the surrounding properties as advised in the LP. That other properties have sought to utilise permitted development rights to reduce the garden length is also not determinative in this appeal.
18. The appellants are also seeking to argue that the appeal proposal should be considered similar to other developments of flats. However, the appeal before me, albeit described as two 2-bedroom duplex flats, is more akin to a pair of semi-detached houses as each unit would have its own access off the footpath, its own external outdoor space, and its own entrance at ground level. Moreover, the scale, internal floorspace, and open plan living arrangements are similar to those associated with single dwellings as much as with schemes of flats.
19. Unlike the flatted schemes referred to by the appellants, the proposal is not part of a larger scheme. The appeal before me is materially different to the development at 29 Leverstock Green Road¹ which was for nine apartments each with balconies accessed off the living rooms. In that case the development, as a medium sized block of flats, was material to the decision to allow a lower level of outdoor space for each unit. Furthermore, having visited it, I note that there is shared outdoor space around the building that is not part of the appellants' 4sqm per unit figure. This shared space provides additional external areas for residents.
20. The scheme at Montgomery Avenue² is also a flatted scheme. Although only modest sized balconies were proposed for each flat the description of development includes "associated amenity space, landscaping and parking" and there is a condition requiring details of landscaping works. I visited this site while in the area and noted that in addition to the balconies the block of flats also has shared outdoor space around the building. In that regard the Montgomery Avenue scheme is also materially different to the current proposal.
21. Overall, the development proposes dwellings with uncharacteristically short gardens when compared to the surrounding houses. However, in my judgement the development would provide sufficient outdoor space in total due to the addition of the roof level spaces. In regard to outdoor space provision the living conditions of the future occupants of the development would be acceptable.
22. With regard to refuse collection arrangements the proposed plans show a bin store indicating six bins next to the corner of 112a and 112b and the car

¹ Council reference 20/02455/FUL

² Council reference 4/01337/16/FUL

parking area. I have no substantive evidence that this waste collection facility is sufficient to accommodate the waste collection requirements for the proposed two dwellings and the existing three dwellings to meet the standards set out in the Dacorum Borough Council "The Storage of Refuse at Residential Development" advice note, issue June 2006 (the Refuse advice note). Moreover, the details before me do not show that the bins are the larger size used for communal waste storage. Furthermore, it is not clear that there is sufficient space within this area to provide more storage to enable the requirements for waste storage to be subject to a planning condition.

23. Although a different arrangement could be provided within the plot of each of the proposed units this would increase the distance the occupants of these properties would have to move their bins to the public highway. This would also reduce the amount of available outdoor space for the future occupiers of the proposed development and is not the scheme before me.
24. I, therefore, cannot be certain that the waste collection arrangements comply with the Refuse advice note and that the development would provide adequate storage provision for the proposed development and the existing development. The lack of refuse storage, or that refuse storage would be restricted, would be harmful to the living conditions of the future occupants of the proposed development.
25. For the above reasons, although I have found no harm to the living conditions of the future occupiers of the proposed dwellings with regard to external space, I have found harm to the living conditions of the future occupiers from the waste storage arrangements. The development would, therefore, not comply with the quality design required by Policy CS10 of the CS.

Living conditions of neighbouring properties

26. The proposed development would be built on land to the rear of 112, 112a and 112b. As noted above the site has already been fenced off from the donor properties and has subsequently reduced the size of the gardens for the three existing properties. I saw at my visit that the garden for 112 retains an area for sitting out, clothes drying facilities and a sheltered area. Although I was not able to enter their gardens 112a and 112b both had sheds visible from over the fence and there was also a parasol in one garden.
27. The development would retain garden areas for each of the three donor properties. The appellants suggest figures of 62sqm for 112 and 57sqm for 112a and 112b in one section of their statement of case and later suggest that 112a and 112b would have 65.82sqm and 62.15sqm, respectively. I, therefore, cannot be certain what sized gardens would be retained for the existing properties. Moreover, the garden areas would fall significantly short of the recommended 11.5m depth set out in Appendix 3 of the LP and would also be significantly shorter than the gardens of the adjoining properties.
28. The reduction in the garden areas would be created by the proposal to build new dwellings on part of the original gardens, and it would, therefore, be an adverse effect of the proposal. That there may be other gardens in the wider area that are not dissimilar in size is not reason to justify further harm. The proposed building would also be built very close to these now smaller garden areas retained for the donor dwellings. The depth of the proposed development

would extend the full width of the garden of 112b which would be oppressive and visually intrusive for the users of this small garden area.

29. The proposal would not include any windows in the first-floor side elevations and the proposed roof terrace is to be screened with an obscure glazed panel. This would ensure that there is no direct overlooking between the development and its immediate neighbours to either side. The separation distance is also sufficient to ensure that the development would not result in an unacceptable overbearing feel from the existing properties or unacceptable loss of sunlight or daylight. However, this would not overcome the effect of the development on the garden of 112b.
30. On the opposite side of the footpath are the gardens of 110 New Park Drive and 37 Masons Road. The first-floor windows in the front elevation of the proposed dwellings would face over the footpath and would result in some overlooking of the gardens of these two properties. However, both are already overlooked by other neighbouring properties and the extent of overlooking from the proposed development would not be significantly greater than existing. The proposed development would not directly face either of these existing neighbours and would, therefore, not result in direct overlooking of the dwellings.
31. Consequently, although I find that the development would not adversely affect the living conditions of 112, 112a or 110 New Park Drive or 37, 39 and 41 Masons Road, the development would adversely affect the living conditions of 112b New Park Drive, with particular regard to outlook, as a result of being overbearing to the small garden retained for this property. The development would, therefore, be contrary to Policy CS12 of the CS which seeks to ensure that developments avoid visual intrusion, amongst other matters.

Adequacy of access and parking arrangements

32. The scheme proposes nine parking spaces to the front of the donor properties. This level of parking would be broadly consistent with the requirements set out in the Dacorum Borough Council Parking Standards Supplementary Planning Document, November 2020 (the Parking SPD). The Oak tree, which is protected by a Tree Preservation Order, lies outside of the site, on the footpath. However, its root protection area extends to within the parking area.
33. The land to the front of the donor properties has already been laid with gravel and, although this is not in accordance with the approved plans for the subdivision of the donor properties, it is the current situation on site. The Oak tree does not appear to have suffered from the laying of the gravel or the parking of cars underneath it, which I observed while on site. I, therefore, have no reason to find that the proposed car parking layout would affect the Oak Tree.
34. The parking area is also already enclosed along the roadside and either side with well-established hedges and I have no reason to believe that these hedges would not be retained. The Oak tree and the hedges provide some degree of greenery as viewed from New Park Drive.
35. The hedge within the parking area, to the front of 112a and 112b is not shown to be retained and would likely need to be removed to provide the nine parking

spaces. This would remove the limited greenery from within the site and increase the area of hard surfacing.

36. Furthermore, the use of the whole of the space to the front of the existing building, for parking along the full length of both sides, would result in a narrow area between the two rows of parking. The Council contend that this is below the six metres required for circulation space and I have no substantive evidence to disprove this. Although the spaces nearest New Park Avenue could be used and vehicles could reverse out into the space between the cars, I do not have swept path analysis information to show that the spaces nearest the existing building could be used without increasing the risk of vehicles reversing out of the car park. Consequently, the car parking layout, albeit as existing, would not provide sufficient space for parking and servicing.
37. The development would not result in a severe residual impact on highway safety or capacity. However, the scheme for nine parking spaces would result in some degree of harm and risk to highway safety from the lack of manoeuvring space, notwithstanding the Council Highway Authority advice on the previous scheme³.
38. Although the appellants suggest that the number of parking spaces could be lowered to six, this is not the proposal before me.
39. For the above reasons, the proposal would result in an adverse effect on highway safety, with regard to the adequacy of the access and parking arrangements. Consequently, the development would not comply with Policies CS8 and CS12 of the CS which, taken together, seek to ensure that development provides sufficient, safe, and convenient parking and sufficient space for servicing.
40. For the same reasons, the proposal would fail to comply with Policies 51 and 54 of the LP which require development to not have a significant impact on the nature, capacity, and use of the highway network, the design and capacity of parking areas and implications for on-street parking, and be designed to meet current national and local standards for highway design, access, and servicing arrangements and circulation space.

Planning Balance

41. The Council states that it is not able to demonstrate a five-year supply of deliverable housing sites. Paragraph 11(d) of the Framework therefore applies. In this case, from the evidence before me, there are no specific policies in the Framework relevant to footnote 7 which indicate that development should be restricted.
42. The proposal would accord with paragraph 60 of the Framework which seeks to significantly boost the supply of housing and would support the local community, as required by paragraph 74. I also acknowledge there would be general social and economic benefits of providing two 2-bedroom dwellings, as supported by the Framework. Moreover, the proposal would be development on a small site, creating higher density development in an area which, based on the appellants' evidence, would have good transport links. However, in providing two additional properties these benefits are limited. Nevertheless,

³ Council reference 20/03515/FUL

these benefits contribute positively and carry moderate weight in favour of the proposal.

43. Although the development would be making efficient use of land and provide housing in an area where there is access to alternative forms of transport than the private car, and would be built with reduced carbon emissions and no harm to ecology, there would be adverse environmental impacts in terms of the effect on the character and appearance of the area from the location of the site, the cramped and contrived layout, and harmful environmental effects on the living conditions of both the future occupants of the scheme and the occupants of the neighbouring property, 112b New Park Avenue. The development would, therefore, be contrary to paragraphs 131 and 135 of the Framework, which amongst other matters seek to secure high quality, beautiful and sustainable buildings, and places, promote good design, maintain a strong sense of place, and create places with a high standard of living conditions for existing and future users. These environmental impacts are afforded significant weight.
44. In my judgement, the adverse effects of the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Other Matters

45. The appeal site lies within the zones of influence for the Chilterns Beechwoods Special Area of Conservation (SAC). The effect of the development on the SAC was included as a reason for refusal. From the evidence before me, the appeal scheme would result in a net increase in residential accommodation which could result in adverse effects upon the integrity of the SAC through increased recreational use.
46. As the competent decision-making authority, if I had been minded to allow the appeal, I would need to examine these matters further and undertake an Appropriate Assessment of the implications of the appeal scheme upon the SAC. However, as I am dismissing the appeal on other main issues, the outcome of an assessment would have no bearing on the overall outcome of the appeal. Therefore, it is not necessary for me to consider this matter further.

Conclusion

47. For the reasons given above I have found that the proposal would be contrary to the development plan as a whole, including the Framework. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

K Townend

INSPECTOR