



Appeal Decision

Site visit made on 3 June 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd July 2024

Appeal Ref: APP/Y1945/W/23/3331725

Land to the rear of 32 Strangeways Close, Watford WD17 4SP

- 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 Kevin Brady against the decision of Watford Borough Council.
 - The application Ref is 23/00089/FUL.
 - The development proposed is erection of 3 number 3 bedrooms semi-detached homes, 1 number 3 bedroom terrace home and 1 number 5 bedroom semi-detached home with appropriate parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development and site address in the banner above from the Council's decision notice as this most accurately reflects the proposed development and site location albeit I have replaced strangeways with close.
3. A revised National Planning Policy Framework (the Framework) was published following the Council issuing its decision. The main parties have had the opportunity to comment on the revised Framework during the course of the appeal.
4. As part of their appeal submission the appellant has provided additional drawings and reports¹. These involve details pertaining to two recently protected trees, biodiversity/protected species, light conditions for future occupiers and highway safety. Whilst not substantial changes, they have the potential to affect consideration of the main issues. Having regard to the Wheatcroft² and Holborn³ principles, as well as the procedural guidance⁴, I conclude that, with the exception of the Daylight & Sunlight Report (ds-report), it would not be fair or reasonable to determine the appeal against the additional drawings and reports. To do so would prejudice interested parties who I cannot be sure have had the opportunity to comment on these additional documents. Therefore, I have not taken them into consideration but have determined the appeal on the basis of the plans and information originally submitted to the Council.

¹ Drawing No 0001-D-0100 Rev P2, Daylight & Sunlight Report prepared by Schroeders Begg dated 09/23, Fire Tender and Car Swept Path Analysis dated 09/23, Crossman Associates letter dated 13/10/23 and Preliminary Ecological Appraisal prepared by Crossman Associates dated 09 October 2023.

² Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁴ Planning Inspectorate Procedural Guide: Planning Appeals – England (updated 28 May 2024)

5. In regard to the ds-report this technical document is an update to the original report submitted with the application that the Council have had the opportunity to comment on during the appeal process. Therefore, I find that accepting the ds-report, on the evidence before me, does not lead to any prejudice for any interested party.

Main Issues

6. The main issues are the effect of the proposed development on:
- the character and appearance of the area;
 - the living conditions of the occupiers of 57 Strangeways Close and Nos. 99 - 105 Courtlands Drive, with particular regard to privacy and outlook,
 - protected species and biodiversity;
 - highway safety; and
 - whether the proposed development would provide appropriate living conditions for future occupiers, with regard to daylight and sunlight;

Reasons

Character and appearance

7. The appeal site consists of an irregular shaped parcel of land sited to the rear of Strangeways Close and Courtland Drive. Strangeways Close has a predominantly residential character with dwellings facing the tree lined road in spacious verdant plots.
8. The character of this section of Courtland Drive is a mixture of residential and commercial uses. The residential properties along Courtland Drive are generally 2 storey semi-detached dwellings albeit a larger 3 storey residential building lies on the opposite side of the road to the appeal site. Some nearby properties also appeared to be occupied as maisonettes. The commercial element of this area is formed of a terrace-row set back from the road. Buildings in the area are set back by front gardens and wide pavements giving the area an open and spacious character.
9. The appeal site would be accessed off Goodwood Avenue, which is formed by well-spaced residential properties set back from the road behind front gardens and driveways. The access road services a number of commercial units from the rear before leading up to the appeal site and a public access onto Goodwood Recreation Ground.
10. During my site visit I observed within the appeal site, surrounding gardens and edge of Goodwood Recreation Ground, there are frequent large mature trees which form a break from the surrounding built form to the more open section of the recreation ground. These trees, alongside established surrounding vegetation, including the trees subject to a Tree Preservation Order at the appeal site, contribute to the verdant feel of the streetscene and surrounding area offering some visual relief when entering the recreation ground.
11. It is noted that the appeal scheme has evolved from a previous iteration that was subject to pre-application discussions with the Council and that at the time the application was made, there were no tree protection orders on site.

However, as there are now protected trees on site, I have taken them into consideration.

12. The appeal scheme would see the removal and cutting back of a number of trees and vegetation to facilitate the proposed dwellings and associated infrastructure. The development would also see the removal of two protected trees, T1 Sycamore and T2 Beech.
13. Given the size, position and contribution of the trees, including protected trees, to the visual amenity of the area where it transitions to Goodwood Recreation Ground, the limited proposed compensatory planting would not be sufficient to address the loss and reduction. On the basis of the evidence before me, the scheme would erode the aesthetically pleasing influence that the trees have on the area as it transitions from built form to the verdant setting of Goodwood Recreation Ground.
14. The proposed dwellings, by virtue of their backland siting, angled layout with units 1 and 2 located to the back end of the site, would be incongruous with the more established character and appearance of the area. It would be a contrived design to try and mitigate surrounding site constraints whilst trying to avoid harm to the living conditions of existing and future occupiers while also trying to accommodate the required level of parking and outdoor amenity space without a substantial loss of the surrounding trees. This would result in a cramped development which would appear to be wedged into the site, resulting in an overdevelopment of the area. Whilst the offset gable design and use of materials would soften the visual appearance of the dwellings, the layout and cramped nature of the proposal, due to its incongruous overall design, would result in an uncomfortable juxtaposition between the more established traditional pattern of development fronting the road in spacious plots that is found in the surrounding area.
15. The proposed development would therefore fail to accord with Policies QD6.2 and QD6.4 of the Watford Local Plan (WLP). These require, amongst other things, new development to make a positive contribution to high quality design and place-making that reflect the wider character of the area. The proposed development also conflicts with the Framework in so far as it requires decisions taken on development proposals to ensure existing trees are retained wherever possible and the design is sympathetic to local character including the surrounding built environment and landscape setting.

Living Conditions – neighbouring occupiers

16. The main parties do not agree that the development would achieve the required separation distances as set out in the Watford Residential Design Guide (WRDG). The WRDG requires rear elevations of new houses and existing houses, when clear glass and directly facing habitable windows are at first floor level to achieve a minimum separation distance of 27.5m unless it can be demonstrated that adequate privacy standards can be achieved. Even if a shorter separation distance is accepted the 11m boundary rules of the WRDG still apply. This requires that a minimum direct distance between upper level habitable rooms on a side or rear elevation and property boundaries of 11m should be achieved in order to minimise overlooking of private gardens.
17. The proposed development would see the new dwellings located in close proximity to the rear gardens of 32 and 57 Strangeways Close failing to

achieve the required 11m boundary distance. The use of angled timber fins and alongside existing boundary treatments, including planting, would offer limited screening which would likely be further reduced in winter months when trees are not in leaf. As a consequence of the position of these dwellings, there would be an unacceptable level of visual intrusion into the private amenity space and potentially into the rear habitable rooms of 32 and 57 Strangeways Close.

18. The proposed dwellings would face the rear of properties on Courtlands Drive at an angle. The WRDG does not specify a separation distance in these instances. It does, however, note that separation distances between front elevations will be determined by the street layout and the size of the front gardens. It is therefore a matter of planning judgment as to whether sufficient levels of privacy are achieved. For similar reasons to those identified above, boundary treatments and angled timber fins would have the potential to reduce overlooking. However, from the limited evidence before me I am unconvinced these features would be sufficient to prevent an unacceptable level of visual intrusion into the private amenity space of Nos. 99 - 105 Courtlands Drive.
19. Due to the proximity of units 1 and 2 to the boundaries of Nos. 99 to 103 Courtlands Drive, the height and scale of these dwellings, would dominate outlook from the gardens of these properties. As a result, there would be no relief from the development in the outlook from within the garden areas facing the appeal buildings. The resulting outlook would be restricted and uninviting.
20. The appellant has drawn my attention to a development at 55 Strangeways Close. I do not have the full details before me. From the evidence provided these works were to an existing house whereby some mutual overlooking between private gardens already existed. This is materially different to the proposal which I have considered on its own merits.
21. I conclude that the proposed development would have a significantly harmful effect on the living conditions of neighbouring occupiers due to its effect on their privacy and outlook. The proposal would therefore be contrary to the Framework, WLP Policy CC8.5 and to the WRDG which together amongst other things, seek to protect residential amenity.

Protected species and biodiversity

22. Circular 06/20051 states that the presence of a protected species is a material consideration when a development proposal is being considered which would be likely to result in harm to the species or its habitat. It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before any planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.
23. In addition to the mature trees, the appeal site contains substantial areas of vegetation. I also observed how the site forms a verdant link to the surrounding trees and grassed areas of Goodwood Recreation Ground such that it could provide suitable habitat for a number of species.
24. From the evidence before me, the appellant has not provided information upon which an assessment of any protected species using this habitat could be reasonably assessed. Without robust evidence, I cannot be confident that

development could be carried out in this location without adversely affecting any protected species habitats that may be present on site.

25. Moreover, the appeal scheme would see the removal of a large number of trees and areas of vegetation. In the absence of any cogent evidence I am unable to conclude that the development could be undertaken without causing harm/loss to biodiversity within the site that could be mitigated whilst providing a measurable net gain. This is because of the extent of tree and vegetation coverage within the site and the nature and extent of the development proposal.
26. Accordingly, I am unable to conclude that the appeal site does not contain any protected species. Additionally, the scheme would fail to provide a measurable net gain in biodiversity. I find that the proposal would conflict with Policies NE9.1, NE9.2 and NE9.8 of the WLP, which seek, amongst other things, the conservation and enhancement of the natural and local environment. It would also conflict with the Framework, which sets out the principles for the determination of planning applications to protect and enhance biodiversity.

Highway safety

27. Vehicular access is taken from a narrow access road off Goodwood Avenue. The access road serves the rear of various premises and a pedestrian access to Goodwood Recreation Ground. At the time of my site visit, I observed a number of vehicles parked along the access road and to the rear of these nearby properties. Alongside a small number of manoeuvring vehicles a number of larger commercial vehicles were parked in a haphazard position on the road while being unloaded. I also witnessed a steady flow of pedestrians using the access road to enter Goodwood Recreation Ground.
28. The proposed layout does not indicate turning space for larger vehicles such as a waste carrier vehicle or other emergency services vehicles such as a fire engine. From my observations on site and the plans before me it is likely that larger vehicles would be able to traverse the access road and enter the appeal site. However, there is no substantive evidence presented to demonstrate that larger vehicles would be able to turnaround within the appeal site or on the access road due to the constrained parking area and parking along the access road. These larger vehicles would have to reverse into, or out of, the site from a busy road whilst navigating awkwardly parked vehicles and pedestrians along the access road. As a result, the reversing of vehicles would give rise to conflict with other motor vehicles and pedestrians. It would also have a severe impact on the free flow of traffic.
29. The Council have also raised concerns with how cars can access and exit the proposed parking bays. The parking area while relatively small would only serve a small number of properties with limited spaces. Drivers would be likely to be moving at a slow speed and to exercise care when navigating it in and out of the proposed bays. Moreover, reversing manoeuvres would only take place over a short distance. In such circumstances I do not find that such manoeuvres would unacceptably compromise the safe and free flow of traffic in this location to the detriment of other highway users.
30. As such, based on the lack of substantive evidence to demonstrate that the proposal would not have implications for highway safety with particular regard to larger vehicles, I find that the proposal would be contrary to Policy ST11.6 of

the WLP. It would also be contrary to the Framework in so far as it seeks new development to be safe and accessible.

Future occupiers

31. The Framework states when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards). WLP Policy QD6.4 amongst other things, requires new residential buildings to provide internal and external spaces that support the health and wellbeing of those who use and experience them.
32. There is no dispute between the main parties that all the proposed dwellings would provide acceptable levels of internal and external space and based on the submitted details I find no reason to disagree. The Council's concern in relation to this main issue is in respect of daylight and sunlight provision to the proposed dwellings and associated garden area.
33. As identified above, there are numerous trees in and around the site. A number of these retained trees will during certain periods of the day restrict both daylight and sunlight entering the gardens and internal areas of the dwellings. However, in the absence of any substantive evidence contrary to the findings of the updated ds-report all habitable rooms will exceed the minimum target sought for both daylight and sunlight provision in the dwellings.
34. It is noted within the ds-report that some of the amenity areas are likely to be subject to more shade. Whilst some future residents may prefer a garden with more sunlight/daylight, there is nothing within the evidence before me that suggests that a greater level of shade would restrict future occupiers from using this outdoor space. It would be a matter of personal choice for occupiers.
35. For the above reasons, daylight and sunlight levels appropriate to the needs of the future occupiers would be met both internally and externally. As such, it would comply with WLP Policy QD6.4 in so far as it requires new development to support the health and wellbeing of those who use and experience them. For similar reasons it would accord with the aims of the Framework which seeks a high standard of amenity for future users.

Other Matters

36. The Framework seeks to encourage pre-application engagement. The appellant has referred to discussions held with the Council at pre-application stage and the Council's comments. They do not, however, represent formal planning decisions and furthermore they relate to a different form of development than the appeal proposal. I therefore give these matters limited weight. I have considered the appeal on its own individual planning merits.
37. The council's failure to provide the tree protection notice in line with their internal targets is not a matter for me to resolve as part of this appeal.

Planning Balance

38. The Council states the delivery of housing is at 48% in the Borough, which is substantially below (less than 75% of) the housing requirement. As a result, paragraph 11 d) of the Framework is engaged. Paragraph 11(d)(ii) of the

Framework confirms that in circumstances such as these, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.

39. There would be economic and social benefits from the additional supply of housing, including family housing and from the build and occupation of the properties. Given the scale of the scheme and in light of the delivery figures above, such benefits would be moderate.
40. There would be no harm with regard to the living conditions of future occupiers, and the site is in an accessible location with nearby shops and services. However, a lack of such harm would only be a neutral factor and does not weigh in favour of the appeal scheme.
41. Additionally, whilst the site would be cleared to accommodate housing, I did not find it to be in an untidy condition such that the redevelopment of the site carries no weight in favour of the proposal.
42. As identified above, there would be substantial harm to the character and appearance of the area and living conditions of nearby occupiers. There would also be substantial harm in regard to highway safety and biodiversity. The appeal scheme has also failed to demonstrate there would not be any harm to protected species which I attach substantial weight. The policies that the scheme conflicts with are broadly consistent with the provisions of the Framework. As such, and due to the degree of harm I have identified, I give the conflict with these policies substantial weight. The proposal conflicts with the development plan as a whole.
43. The proposal would align with the aim of the Framework to significantly boost the supply of housing in a sustainable location with access to services and facilities. It would accord with the economic policies of the Framework from the build and occupation of the dwellings and where it recognises that small and medium-sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. Taking account of the scale of the scheme and the delivery figure, such benefits would be moderate.
44. It would conflict with the Framework where it requires schemes to be sympathetic to local character while protecting existing trees. It would also conflict with the Framework in so far as it relates to highways safety, living conditions of existing users, protected species and biodiversity. These conflicts attract substantial weight respectively.
45. Even with the level of shortfall in delivery, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the scheme does not benefit from the presumption in favour of sustainable development as set out in the Framework.

Conclusion

46. The development would provide suitable living conditions for future occupiers of the development. However, for the reasons set out above, the proposed development conflicts with the development plan when considered as a whole, and the Framework, and there are no material considerations, either

individually or in combination, that outweighs the identified harm and associated development plan conflict.

47. Therefore, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR