



Appeal Decision

Site visit made on 12 July 2024

by R J Redford MTCP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 August 2024

Appeal Ref: APP/N1540/W/23/3330138

14 Kingsdon Lane, Harlow, Essex CM17 9AB

- 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 Mrs D Sitton of Bellfield Developments against the decision of Harlow District Council.
 - The application Ref is HW/FUL/23/00228.
 - The development proposed is a single detached dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a single detached dwelling at 14 Kingsdon Lane, Harlow, Essex CM17 9AB in accordance with the terms of the application, Ref HW/FUL/23/00228, and subject to the conditions in the attached schedule.

Procedural Matters

2. There are multiple spellings of the road that the proposed new access would connect to including Bellfield Gardens and Belfield Gardens. However, during my site visit, I noted the road sign states Bellfield Gardens and so I have used this spelling in this decision.

Background and Main Issues

3. Within its statement of case the Council consider the appeal site an 'Other Open Space'¹ and that the proposal could impact on a Local Wildlife Site which is approximately 50m away on the other side of Kingsdon Lane. Although these issues are not clearly defined within the reason for refusal, it is acknowledged they are referred to within the officer report, relevant policies are highlighted within the Council's evidence, and the appellant was aware of them during the application process and has had the opportunity to respond.
4. Consequently, the main issue is the effect of the proposed development on the character and appearance of the area; the setting of a Local Wildlife Site, and the 'Other Open Space' designation of the appeal site.

Reasons

Character and appearance

5. The appeal site forms part of the garden of 14 Kingsdon Lane. No 14 is a detached property on a large plot located between Kingsdon Lane and Bellfield Gardens. A public footpath runs down one side of the appeal site and links

¹ As defined by Policy PL6 of the Harlow Local Development Plan

Bellfield Gardens with Kingsdon Lane and the Local Wildlife Site footpaths. The appeal site is largely laid to lawn but there is abundant vegetation along the boundaries with Bellfield Gardens and the footpath. These boundaries include mature and established hedges and trees as well as other planting (here on known as the planted boundaries) and provide a verdant backdrop to the site's immediate vicinity.

6. The appeal site is within a large suburban residential area where although there are clearly differences in design most properties are of a similar functional vernacular. They are predominantly two-storey and a mix of detached, semi-detached, or short terraces. The majority are positioned closely to their neighbours with parking to the front and modest rear gardens, although the orientation of properties does vary with not all frontages directly facing the road.
7. Kingsdon Lane is moderately different in character with slightly larger properties that appear to be mainly single storey and detached. However, as the appeal site would be accessible from Bellfield Gardens, and due to the location of the new building, the proposal would be more visually and spatially related to that road rather than Kingsdon Lane.
8. The proposed dwelling would be set back in the appeal site behind the planted boundaries, which would be retained. It would be two-storey and not dissimilar in footprint or style to surrounding properties although due to the planted boundaries the plot would be larger than others along Bellfield Gardens.
9. It is appreciated that the proposal would require the loss of a small section of the planted boundaries to create an access, and the top of the proposed dwelling would be visible over the boundaries. However, the location of the access would be close to the garage of the adjacent property, 36 Bellfield Gardens, so would not break up the bulk of the planted boundaries. Also due to the built-up nature of the appeal site's surroundings, development is already clearly visible in views over and across the appeal site.
10. Therefore, due to the retention of the majority of the planted boundaries, although the proposal would constitute change it is not found that this would be to such a degree as to fail to preserve the character and appearance of the street scene, or overall townscape setting.
11. The importance of the planted boundaries is emphasised by the Inspector in a previous decision². However, as that proposal was for 3 dwellings and would have required the removal of most of the planted boundaries, I am satisfied that the scheme is significantly different to that which is before me, therefore allowing a difference in conclusion relating to character and appearance.
12. It is recognised that the Council has concerns relating to pressure from future occupiers to reduce the size and depth of the planted boundaries. Nevertheless, the submitted plans show that the proposed garden space for the new dwelling would be commensurate to other similar sized properties in the area, and the retention of the planted boundaries could be secured by condition thus ensuring control is kept with the Council. Equally the planted boundaries would be predominantly to the north and east of the proposed dwelling so are unlikely to have such an impact on access to light as to cause detrimental harm

² Planning application reference HW/OASNR/20/00437 and appeal reference APP/N1540/W/21/3278976

to the living conditions of future occupants. It is also noted there are other regulatory mechanisms in place that the Council could use to protect the trees within the planted boundaries which they have not implemented.

13. Therefore, the proposed development would not harm the character and appearance of the area. It would therefore comply with DP Policies PL1 and H2 insofar as they seek to protect local distinctiveness and prevent adverse effects on character and appearance. It would also accord with Principle DG28 of the Harlow Design Guide Supplementary Planning Document as far as it requires infill development to positively respond to the prevailing character of an area and be similar to surrounding buildings.

Local Wildlife Site

14. Harlow Local Development Plan (DP) Policy PL9 requires new development to contribute to and enhance biodiversity and preferably conserve and enhance existing biodiversity assets, amongst other things. The main parties agree that the retention of the planted boundaries would also constitute an overall net gain of 0.02% in area habitat units and 35.94% increase in habitat units. Therefore, the proposal would contribute to and enhance biodiversity.
15. However, the Council has stated that the impact of noise, light and disturbance from the proposed garden would reduce the ecological value of the setting of the Local Wildlife Site (LWS).
16. Nevertheless, the proposal would retain the planted boundaries which would provide a buffer against the LWS and concentrate development on the part of the site furthest away from it. The proposed garden would be located on land already used for residential purposes and would be located further away from the LWS than existing residential gardens. It would be separated from the LWS by a public road and footpaths which, as observed during my site visit, were extensively used, and lit by street lighting.
17. The proposal would not therefore break the existing wildlife linkage and buffer the existing planted boundaries provide for the LWS, and so maintain ecological value of its setting and thus conserve it as an existing biodiversity asset. It would therefore comply with DP Policy PL9.

'Other Open Spaces'

18. DP Policy PL6 seeks to protect 'Other Open Spaces' but sets out 3 criteria which development of such spaces must meet. As the appeal site is not publicly accessible nor would its development prejudice the development of adjacent land, the proposal would comply with criteria b) and c).
19. DP Policy PL6 criteria a) states that development would not compromise the landscape character, openness, biodiversity, or urban design principles of the surrounding area. It is found above that the proposal would not harm the character and appearance of the surrounding area, general urban design principles, and biodiversity. Due to the density of the planted boundaries the openness of the site cannot be appreciated from outside of it and it is the verdant impact of those boundaries which inform the character of this part of the road. As these would be retained the proposal would not compromise the landscape character, nor significantly alter the impact the appeal site has on openness, so would also comply with criteria a).

20. As the proposal would meet the necessary criteria of DP Policy PL6, the development of the appeal site it acceptable in relation to is being designated as an 'Other Open Space'.

Other Matters

21. It is noted that the appeal site was given permission to be absorbed into the garden of 14 Kingsdon Lane in 2009. The Council infer that this was only approved as assurances were given that there was no intention to develop onto the land and the retention of the existing vegetation was conditioned. Nevertheless, I am bound to consider the scheme in its current form, but it is acknowledged that the use of conditions to retain vegetation on the site have been used successfully in the past.
22. Interested parties have drawn my attention to matters relating to parking and additional traffic congestion, construction disturbance, the use of septic tanks, and the living conditions of nearby residents and future occupants. I have taken these into account however, I am satisfied that from the evidence submitted by the main parties that these matters could be dealt with by condition or would not be so impacting to constitute harm. In relation to septic tanks, the appellant has confirmed the proposal will be linked to the main sewer³.
23. It is noted that the Council has a five-year housing land supply and so interested parties consider there is no need for additional housing. However, a five-year housing land supply is not a cap to residential development, and the National Planning Policy Framework (The Framework) seeks to boost the supply of homes and make more efficient use of land in accessible locations, such as the appeal site.
24. Matters relating to the previous terms of sale and property values are noted, but I am required to consider the planning merits of the case and these matters would not impact them.
25. Concerns relating to consultation are noted. However, there is nothing before me to substantiate that the Council have not undertaken the necessary regulatory consultations both at application and appeal stage. I have also found the evidence submitted by the main parties to clearly document their positions and although there may be minor discrepancies between various documents there is nothing which would constitute purposeful misdirection.

Conditions

26. The Council have suggested some conditions which I have considered against the advice in the Framework and Planning Practice Guidance. As a result, I have amended them for consistency and clarity and added to them where it has been necessary.
27. In addition to the standard time limit condition, I have imposed a condition requiring the development to be carried out in accordance with the approved plans as this provides certainty (conditions 1 and 2).
28. Given the nature of the proposed development and proximity to other residential dwellings condition 4 has been imposed for the sake of the living

³ As noted on the planning application form.

conditions of neighbour occupants. Conditions 5 and 6 serve a control the planted boundaries and are imposed both in the interest of the character and appearance of the development and surrounding area, and the retention of an existing biodiversity feature. Conditions 7 would also serve to protect character and appearance, whilst 3, 10 and 13 would also protect and enhance biodiversity. Condition 10 has been reworded to refer to the enhancements set out within the Preliminary Ecological Assessment which reflect the prescribed list set by the Council.

29. Conditions 8 and 9 have been imposed to ensure appropriate parking is retained and conditions 11 and 12 are required to ensure compliance with DP Policies relating to sustainable development and construction, and accessibility.
30. The appellant has had opportunity to comment on those conditions not suggested by the Council and have agreed to conditions 4 and 5 which are pre-commencement.

Conclusion

31. For the reasons given above the appeal scheme would conflict with the development plan when read as a whole and there are no sufficiently weighted material considerations, including the Framework, which would indicate a decision otherwise. The appeal is, therefore, allowed.

RJ Redford

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Plan 4; 514/P/100 Revision B; PR256-01 Revision D; and PR256-02 Revision A.
- 3) The development hereby permitted shall be carried out in accordance with the Non-licensed Precautionary Method Statement (MS) set out within the Preliminary Ecological Appraisal prepared by T4 Ecology Ltd and dated May 2023.
- 4) No site clearance, preparatory work or development shall take place, including any works of demolition, until a Construction Method Statement (CMS) has been submitted to, and approved in writing by the local planning authority. The CMS shall provide for but is not limited to:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development; and
 - iv) delivery, demolition, and construction working hours.The approved CMS shall be adhered to throughout the construction period for the development.
- 5) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees and hedgerows (the tree

and hedgerow protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with British Standard BS 5837: Trees in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) has been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees and hedgerows shall be carried out as approved.

- 6) No retained tree or hedgerow shall be cut down, uprooted, destroyed, pruned, cut, or damaged in any manner, other than in accordance with the approved plans and details.

If any retained tree or hedgerow is cut down, uprooted or destroyed or dies another tree or plant shall be planted at the same place and that tree shall be of such size and species and shall be planted, in accordance with condition 4, at such time as may be specified in writing by the local planning authority.

- 7) No development above ground level shall take place until samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved sample details.
- 8) The development hereby permitted shall not be occupied until the vehicle parking spaces have been provided in accordance with drawing no 514/P/100B. Thereafter those spaces shall be retained for the parking of vehicles only.
- 9) The development hereby permitted shall not be occupied until cycle storage facilities have been installed in accordance with details that have first been submitted to and approved in writing by the local planning authority. Thereafter those facilities shall be retained for the storage of cycles.
- 10) The development hereby permitted shall not be occupied until the Enhancements set out within the MS have been installed in accordance with details that have first been submitted to and approved in writing by the local planning authority. The Enhancements shall thereafter be retained.
- 11) The development hereby permitted shall not be occupied until:
- details of measures to ensure that the development shall achieve an improvement of at least 19% upon the requirements of Part L of the Building Regulations 2010 in terms of emissions rate; and
 - water usage of no more than 110L per person per day
- have been submitted to and approved in writing by the local planning authority. Thereafter the approved measures shall be retained.
- 12) The development hereby permitted shall not be occupied until Building Regulations Part M4(2) standard for accessible and adaptable homes has been complied with.
- 13) Any external lighting shall be installed in accordance with details that have first been submitted to and approved in writing by the local planning authority.

END OF SCHEDULE