



Appeal Decision

Site visit made on 26 June 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 9 August 2024

Appeal Ref: APP/W4705/W/24/3338428

Eldwick Grange, Sheriff Lane, Eldwick, Bingley, Bradford BD16 3EN

- 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 Alan Tomlinson of Eldwick Properties against the decision of City of Bradford Metropolitan District Council.
 - The application Ref is 23/01142/FUL.
 - The development proposed is development of 3 new detached houses with new section of adopted road and turning head and private drive.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Alan Tomlinson of Eldwick Properties which is the subject of a separate decision.

Preliminary Matters

3. Several revised plans¹ were submitted with the appeal, as the appellant considered that the original plans did not accurately show the relationship of the development proposal with rear windows and doors on No 3 Huntsman's Close and the distance to the boundary. An Automatic Traffic Counter survey was also conducted with analysis by a highway consultant.
4. I have considered the revised plans, and the additional data, however, applying the principles established by 'Holborn'², I consider that they are a fundamental change to the proposal. It is important that the appeal is determined on the basis of the plans as originally submitted and upon which the Council based its decision. Whilst some third parties are aware of the revised plans, others are not. Moreover, they have not been seen by committee members or consultees and there has been no formal consultation. This would, therefore, prejudice the interests of these parties who have not been consulted on these revisions. Consequently, I have proceeded to determine the appeal on the basis of the plans and information as originally submitted.

Main Issues

5. The main issues are the effect of the proposal on:

¹ Drawing No: 22-20128-AP01 Rev E; Drawing No: 22-20128-AP06 Rev B; Drawing No: 22-20128-AP21

² Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

- the living conditions of the occupiers of neighbouring properties with regard to overlooking;
- the surrounding highway network and whether it would affect highway safety.

Reasons

Overlooking of neighbouring properties

6. The appeal site is part of the garden of Eldwick Grange, a detached, period, stone dwelling with a lawn to the front. It is in a residential area of detached and semi-detached houses. To the side of Eldwick Grange is Loxley House. Both properties are reached by a drive off Huntsman's Close, where a group of five detached bungalows surround a central turning area.
7. The development proposal is for three, two storey dwellings, and one detached garage, to be sited to the front of Eldwick Grange. The houses would share a driveway with Eldwick Grange and Loxley House. The proposed dwellings would face towards the front of Eldwick Grange and have rear gardens.
8. There is no dispute regarding distances between the development proposal and Loxley House and Eldwick Grange, as well as properties to the west. The main concern is the relationship between the proposal at Plot No 3 (Plot 3) and No 3 Huntsman's Close (No 3), a bungalow, as well as the effect on No 5 Huntsman's Close (No 5).
9. No 3 is located on a triangular shaped site with the front elevation parallel to the road. The proposed house at Plot 3 would be built next to No 3. The side elevation of Plot 3, closest to No 3, would have no windows at first-floor level. On the ground floor there would be a window serving a utility room, a secondary window to a living room and a partially glazed back door. These would be adjacent to the side garden of No 3. This contains a parking area, with views of the blank gable elevation of No 3. This area, with its low boundary wall and location at the edge of Huntsman's Close, is visible from the street and so is not a private garden space. However, a suitably worded condition for a boundary treatment would prevent any overlooking from the ground floor openings in Plot 3 into this area.
10. The front elevation of Plot 3 would be set back from the rear elevation of No 3. The proposed house would have three first floor windows, one serving a bathroom and the other two being the only windows for bedrooms 3 and 4. The window for bedroom 3 has been offset so that it is further away from No 3, and partly sited above the roof of the front entrance porch. Whilst this provides a more oblique angle of vision, it would still result in overlooking of the rear garden of No 3, a triangular area, which from the evidence submitted has a patio and a conservatory, as well as providing the only private garden space for this property. Whilst the window for bedroom 4 would be further away from the boundary, and the distances are greater, there would also be a degree of overlooking of the garden. This would affect the privacy of the occupiers.
11. A single storey garage would be located to the front of Plot 3, with the rear elevation being two metres from the boundary with No 3. The boundary is currently a wooden post and rail fence, with a hedge growing along the middle. The evidence shows that the openings in No 3 that would be closest to the

- proposed garage, are two rear doors with obscure glazing, an obscure glazed window and two clear glazed windows serving the kitchen.
12. The proposed garage would have no windows, and with low eaves at the rear, would be lower in height than the bungalow. Whilst the garage would be visible from No 3, including from the kitchen, which would result in some change to the occupiers' outlook, this would not be harmful.
 13. Evidence submitted refers to the effect of Plot 3's first-floor rear windows on the occupiers of No 5, which is located opposite No 3. Whilst the distance between Plot 3 and the bungalow at No 5 would be appropriate, it would result in some overlooking of the triangular side garden of No 5. However, these would be oblique views at some distance which would not harm the living conditions of the occupiers. Moreover, No 5 has further garden space to the rear which would not be overlooked by the proposal.
 14. In conclusion, whilst there are many two storey properties within the area, Plot 3 would be located next to a bungalow. The position of the proposed house and the first-floor windows would result in overlooking which would affect privacy and harm the living conditions of the occupiers of No 3.
 15. Therefore, the proposal would not accord with Policy DS5 of Bradford Core Strategy Development Plan Document, 2017 (CS). This requires development proposals to make a positive contribution through high quality, inclusive design which does not harm the amenity of existing or prospective users and residents.

Highway network

16. The proposed houses would be accessed off Huntsman's Close, which is a private drive off Sheriff Lane. Sheriff Lane follows a roughly north-south alignment, extending from Otley Road and providing the main axis to many residential roads and properties. Whilst two cars can pass along Sheriff Lane, it is not wide and has a pavement along one side only. However, based on the evidence, and from what I saw on site, cars park along Sheriff Lane, including opposite the entrance to Huntsman's Close. Therefore, on occasions, only one car can pass at a time.
17. Huntsman's Close already provides access to five bungalows and to Eldwick Grange and Loxley House. The proposed development would alter the junction between Huntsman's Close with Sheriff Lane with a new section of adopted road, permeable paving replacing a grassed area and a 2.4m x 43m visibility splay. To achieve this the height of the boundary wall of Loxley House would be reduced to improve the visibility splay in a northerly direction.
18. Third parties, as well as the appellant, have expressed concerns regarding the existing visibility at this junction. However, it is already a wide junction with a low stone boundary wall providing visibility to the south. The measures set out in this proposal, which could be secured through appropriately worded conditions, and are acceptable to the Highway Authority, would provide a safe access onto Sheriff Lane.
19. The proposed development would result in changes to the existing driveway for Eldwick Grange and Loxley House, to provide access to the proposed new houses. It would also provide a footway at the entrance to Huntsman's Close which does not currently exist. Whilst the proposal would generate more

vehicle movements at the entrance to Huntsman's Close, and into the appeal site, it would benefit all existing users of the junction. The size of the access onto Sheriff Lane and the proposed visibility splay would not have an unacceptable effect on highway safety.

20. It is acknowledged that the construction of three new houses would increase the volume of traffic using Sheriff Lane, which is a busy route used to access this residential area. However, I conclude that there is no substantive evidence to suggest that the construction of three dwellings, and the vehicle movements that would result, would have an unacceptable effect on highway safety.
21. Therefore, it would accord with CS Policy DS4 which requires development proposals to connect to existing networks and where necessary improving existing routes.

Other Matters

22. An outline planning application for three detached dormer bungalows was approved on this site in 2012³. A double garage 1000mm from the boundary with No 3 was shown on the layout, however, it had a pyramidal roof and did not extend as far north along the boundary as the appeal case. This permission is, in any case, no longer extant. Whilst a garage could be built closer to the boundary with No 3 than in the appeal case, that is not the proposal before me and so I give this little weight.
23. The appellant refers to discussions at the Council's planning panel, as well as third party comments, which did not capture residential amenity concerns regarding outlook and daylight for the occupiers of No 3 within Refusal Reason 1 of the decision notice. The appellant has referred to Bradford's Design Guide⁴ and Householder Supplementary Planning Document⁵ and the use of a '25-degree rule' to ensure adequate levels of outlook and daylight within habitable rooms. Whilst the submitted evidence suggests this is complied with, a daylight and sunlight study has not been submitted. However, as I am dismissing the appeal on other matters, it is not necessary to address this matter further.
24. The development proposal has set out the use of materials and the layout of the site. It would include solar panels on the garages, air source heat pumps and water butts for each property. This I give moderate weight to. Drainage measures for the site have been provided which is a neutral factor in my overall balance.
25. The appellant considers that two storey properties are most appropriate on this site because of their relationship with Loxley House and Eldwick Grange. Whilst the rear gardens are referred to by the appellant as being around ten metres deep where possible, the Council has not provided any substantive evidence on them, although third parties have commented on their limited size. As I am dismissing the appeal, it is not necessary to address this matter further.
26. There were a number of letters of support for the proposed development, some of which referenced the need for housing, and the benefits from the site being within the existing built-up area, as opposed to being within designated Green Belt. This provides some weight to the appeal.

³ 12/01409/OUT

⁴ Homes and Neighbourhoods Design Guide: A Guide to Designing in Bradford, 2019

⁵ 2012

Planning Balance

27. The site is residential garden land where planning permission has previously been granted for three bungalows⁶. The appeal, however, relates to the construction of three, four-bedroom, detached dwellings, and a detached garage.
28. The Council's committee report states that the presumption in favour of sustainable development, as set out in paragraph 11 of the National Planning Policy Framework (the Framework) is a relevant consideration due to the Council's housing supply. Paragraph 11 d) ii of the Framework therefore applies. This states that 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 as a whole.
29. The proposal would provide three, additional, family sized dwellings, which would contribute to the housing supply. There would be some short-term economic benefits from the construction process, as well as economic and social benefits from the development in the longer term. This I give moderate weight to.
30. Set against this is that the Framework advises that development should create places with a high standard of amenity for existing and future users. Despite the Council's housing delivery position, and the Framework's objective to increase the supply of housing, 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.

Conclusion

31. The proposal would conflict with the development plan and there are no other considerations, including the Framework, that outweigh the identified harm and associated development plan conflict.
32. Therefore, for the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR

⁶ 12/01409/OUT