

Appeal Decision

Site visit made on 23 September 2024

by P Eggleton BSc(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

Appeal Ref: APP/C1950/W/24/3345771

2 Copse Hill, Welwyn, Hertfordshire AL6 0SG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Louis Watts against the decision of Welwyn Hatfield Borough Council.
 - The application reference is 6/2024/0614/FULL.
 - The development proposed is a dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect on the character and appearance of the area; the effect on the living conditions of the residents of both 28 Robbery Bottom Lane and the new dwelling, with regard to privacy; and whether the site represents a suitably accessible location for a new dwelling.

Reasons

3. The proposal would result in a new dwelling in the rear garden of 2 Copse Hill. Local residents have raised concerns with regard to the impact of the proposal on the character and appearance of the area which, it is suggested, is made up of smaller chalet style properties set within the trees. Concerns are also raised regarding the loss of mature trees. I have included the effect on the character and appearance of the area as a main issue.

Character and appearance

4. The area is mixed with regard to property sizes, designs and distances of houses from the narrow lanes. However, the overriding characteristic is one of a very low density, informally laid out, residential area that has generally maintained the dominance of mature landscaping. Some properties are however prominent in public views and built close to the roads. There are clusters of these but they tend to be bungalows, dormer bungalows or houses with well-articulated roof forms which help to reduce the dominance of their built forms. Larger properties are often set further from the road; and their neighbours; and have larger gardens providing mature landscape settings. They are largely perceived as being clearly separate from the built form of the
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- neighbouring properties. There are also numerous smaller dwellings set away from the roads within large mature gardens.
5. The appeal site makes a positive contribution to the wider area. It is heavily wooded with mature trees and other greenery. It provides a back drop to the relatively prominent dwelling at 28 Robbery Bottom Lane and visually separates it from other nearby properties. This is a prominent corner and the lack of development and the dominance of greenery ensures that it is a positive feature that helps to maintain the wider character of the area.
 6. The proposed dwelling would appear as a large building that would be extremely dominant within this plot. The design appears to have sought to maximise the footprint based on root protection area limits. This approach, whilst retaining boundary trees and vegetation would still bring development relatively close to the trees and the boundaries of the site. Although the first floor levels would be set below the eaves, it would nevertheless be of a significant height which would ensure that it would be visible in longer views. It would also be set relatively close to its neighbour, 28 Robbery Bottom Lane and extend forward of its building line. When viewed together, particularly in winter months, despite the marginally lower side element, it would be perceived as a significant consolidation of development that would be at odds with the prevailing character of the area.
 7. When approaching Copse Hill from the east, the frontage of the proposed dwelling would be clearly apparent. The set back from Copse Hill would be limited and its prominence increased due to the considerable length of its frontage and the number of dormer windows that would face the east. Its prominence would be increased further by the loss of the mature oak and chestnut trees and the works required to the retained tree adjacent to the access. Even with enhanced boundary treatments, the new house would be uncharacteristically imposing when using Copse Hill and when viewed across the garden of 1a Copse Hill from Robbery Bottom Lane.
 8. Overall, although designed with cottage style features which would not be out of place in this area, the proposed dwelling would be far too large for this constrained and prominent plot. The design has not had regard to the important contribution that the site makes to the character of the area. The building would be located too close to the boundaries for a structure of this size and height and as a result, it would appear as being overly large and overly dominant. Although the proposal would retain the majority of the remaining trees on the site and the dwelling would be set centrally between them, it would, even with enhanced landscaping to the boundaries, result in considerable harm to the character and appearance of this part of Robbery Bottom Lane; and Copse Hill in particular.
 9. The above concern is heightened as the first Arboricultural Impact Assessment raised questions about the long-term sustainability of trees T5 and T6. The updated layout plan is annotated to have T5 and T6 removed but I have assumed that this is an error. The assessment suggested that it was arguable that trees T5, T6, T7 and T8 are problematic in terms of their relationship with 28 Robbery Bottom Lane; that historically T5 and T7 had been managed in size presumably to minimise their nuisance to that property; and T5 and T6 have early stages of basal decay. The updated Assessment seeks to ensure that

these trees would be retained; and the proposed dwelling would be set away from them. However, any further loss or reduction would substantially increase the unacceptable perception of the consolidation of development, at first floor in particular, in this location.

10. With regard to the trees to be removed, although T18 and T19 are described as being in poor and fair physiological condition respectively and are assessed as low value category trees, they are also assessed to be in good structural condition with life expectancies of 10 to 20 years. These trees make a positive contribution to the character and appearance of the area. I am not satisfied that the design proposed, particularly the footprint of development including access and parking arrangements, has adequately considered all options with regard to the potential for retaining them. This is in conflict with paragraph 136 of the *National Planning Policy Framework 2023* which advises that planning policies and decisions should ensure that existing trees are retained wherever possible.
11. I also have concerns that although the house would lie beyond the canopy spread of trees and would have a relatively open aspect to the south, the building has been designed to extend as close as possible to these trees without encroaching into their root protection areas. Two trees are needed to be managed to allow the development to the front and rear and the distances to T9 and T8 are also relatively small. A number of these trees are very large and are not ideally suited to garden environments, particularly when so close to a dwelling. Although protected, the limited relief from tree canopies on three sides, would be likely to significantly increase demands for greater management of these trees in the future. This adds to my concerns.
12. Overall, the new dwelling would not sit comfortably within the landscape setting which is provided by this plot. It would be overly dominant due to its substantial footprint combined with its height. I disagree with the council in this respect and consider that it would represent poor design in this particular context as it would fail to adequately take account of its immediate setting with regard to its proposed scale; and with regard to its wider setting. It would result in unacceptable harm to the character and appearance of the area. It would therefore be contrary to policies SP 9 and SADM 16 of the Welwyn Hatfield Borough Council Local Plan 2016-2036 (2023)(LP) as it would not sit comfortably within the wider landscape setting or relate well to its surroundings. The *Framework* is clear that development that is not well designed should be refused.

Living conditions

13. The new dwelling would be built close to the dwelling at 28 Robbery Bottom Lane. This has a ground floor and a first floor window close to the boundary that would directly face the new dwelling. The windows of the proposed first floor habitable rooms would be unacceptably close and would result in unacceptable levels of privacy for the neighbouring residents and the new residents of the proposed dwelling. I also consider that the illumination of all the west facing first floor windows would be particularly intrusive when within the side facing rooms of the adjacent house and part of its rear garden. The rear elevation, which would have a considerable length and height, would be

set only a short distance from the boundary. This would also be too close to the windows of the adjacent property and would be overbearing.

14. Although there are a number of trees along the shared boundary, given the positions and heights of their canopies, they would not sufficiently reduce the harm to the living conditions of the residents of 28 Robbery Bottom Lane or the residents of the new dwelling. There is potential for more low level screening by the introduction of new boundary treatments and landscaping, but this would not overcome all of my concerns. The proposal would therefore conflict with the amenity requirements of LP policy SADM 11d.
15. The privacy of the residents of 1a Copse Hill has also been raised as a concern. The proposal would result in the first floor habitable room windows looking directly towards that property, overlooking the garden and west facing living accommodation. Given the distances involved and the level of overlooking possible from public vantage points, I am not satisfied that this additional reduction in privacy would be sufficient to be unacceptably harmful. This is not however a positive feature of the design or orientation of the dwelling.

Accessibility

16. The site lies within an existing residential area. Although there are no pavements, the lanes are, by necessity, used as shared surfaces. It was quite evident that there is a significant level of pedestrian use of these roads and given their characteristics, vehicles and pedestrians can coexist without significant safety issues. The distances to services, including bus stops, are not significant although part of the route is far from ideal.
17. Although not previously developed land, this would represent a small infill site that would not be in an inaccessible location for residents who cycle or walk. In this respect, it would not undermine the council's spatial strategy set out in LP policies SADM 1 and SP 1 as these direct development to the existing settlements. Policy SADM 2iii requires that developments are designed to allow safe and suitable means of access to and from the site for all users and policy SADM 3 seeks provision to be made, where appropriate, for cyclists, pedestrians and public transport. This proposal is not in the most accessible location but despite the concerns with regard to the lack of pavements along the route, beyond these narrow lanes and within the wider local road network, the addition of a further dwelling would not result in unacceptable conflict with the objectives of these policies.

Other matters

18. The appellants have provided revised plans which were not accepted by the council and were not subject to consultation. The plans show an altered internal layout of the first floor of the dwelling to avoid overlooking from habitable rooms. It is at the discretion of the local planning authority whether to accept such changes and to determine if the changes need to be reconsidered upon. Whilst I note the appellants submissions, as they were not accepted as part of the application and were not consulted upon, I am not satisfied that I can consider these plans without prejudice to other parties, particularly the residents of 28 Robbery Bottom Lane. I have not therefore considered the revised plans within my conclusions.

19. There are a number of matters that provide weight in favour of this development. It is advised that it would deliver a wide variety of native species of flora, including bee and butterfly friendly plants; it would include permeable surfaces; rain garden planters and water butts to irrigate the site. With appropriate conditions, the proposal would satisfy the ecological requirements of LP policy SADM 16. Measures to enhance the sustainability credentials of the building have been included to locally source materials where possible and to minimise energy use by ensuring excellent air tightness, double glazing and high levels of loft and cavity wall insulation. Solar panels are proposed on south facing roof slopes but the revised design and the nearby trees do not appear to offer significant potential in this regard.
20. The proposal would make a more efficient use of land in this relatively accessible location. There would be some limited on-site environmental benefits and significant economic and social benefits from the building works and occupation of a new high quality house. These matters provide considerable weight in favour of the proposal. These must be considered against my findings that the proposal would result in unacceptable harm to the character and appearance of the area; and concerns with regard to the living conditions of the future and neighbouring residents.
21. The council's housing supply position ensures paragraph 11d of the *Framework* is triggered. This advises that 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.
22. Although there are clearly benefits to the proposal, which can be afforded greater weight given the local housing supply position, the development would result in considerable environmental harm to the character and appearance of this area and it would represent poor design in this particular context. I conclude that even on the basis of a positive view with regard to the future health and retention of trees and the consolidation of the landscaping, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the *Framework* taken as a whole. The amenity issues add to this concern. I therefore dismiss the appeal.

Peter Eggleton

INSPECTOR