



Appeal Decision

Site visit made on 9 October 2024

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th October 2024

Appeal Ref: APP/A1910/W/24/3337359

32a Rucklers Lane, Kings Langley, Hertfordshire, WD4 8AU

- 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 Hovik Hayrapetyan against the decision of Dacorum Borough Council.
 - The application Ref is 23/01041/FUL.
 - The development proposed is demolition of existing dwelling and outbuildings. Construction of one 2-bedroom and two 3-bedroom detached houses with associated circulation and landscaped areas.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the determination of this appeal are:
 - Whether the appeal proposal would constitute inappropriate development in the Green Belt, including any effect on openness, having regard to the National Planning Policy Framework,
 - The effect on the character and appearance of the area,
 - Whether the proposed development would provide acceptable living conditions for future occupiers with particular regard to the provision of outdoor garden space, vehicle manoeuvring and levels of natural light and outlook,
 - The effect on the privacy of neighbouring occupiers, in particular those at Nos 34, 36 and 38 Rucklers Lane,
 - The effect on trees; and,
 - Would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

Reasons

Whether inappropriate development

3. The appeal site is in the Green Belt. The National Planning Policy Framework (the Framework) defines the essential characteristics of Green Belts as their openness and their permanence. The Framework further states that inappropriate development is, by definition, harmful to the Green Belt, and that the construction of new buildings in the Green Belt should be regarded as

inappropriate save for certain exceptions. One such exception includes the redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt than the existing development.

4. The parties disagree on the extent to which the appeal site comprises previously developed land. However, they agree that the proposed development would have a greater impact on Green Belt openness than the existing buildings on site. This is even allowing for any unexpended permitted development rights. As the proposal is for 3 two-storey houses to replace a dormer bungalow and several single-storey outbuildings, I see no reason to disagree that there would be a greater impact on openness. I do not therefore need to also consider to what extent the appeal site comprises previously developed land.
5. As the proposal would be harmful to the openness of the Green Belt, it would therefore be inappropriate development, and conflict with the identified requirements of the Framework.

Character and appearance

6. Rucklers Lane is a predominantly residential street, largely characterised by detached and semi-detached houses of two-storey scale and varied character. All the houses close to the appeal site have pitched roofs. This includes the existing dormer bungalow at 32A which is of similar height to neighbouring houses. A commercial estate projects back from the street and comprises several units that together extend the full length of the appeal site.
7. Within this context, the appeal proposal comprises a single house on the Rucklers Lane frontage with 2 detached houses toward the rear of the site. These 2 houses would have flat roofs and in appearance would relate to the neighbouring commercial buildings rather than the houses facing onto Rucklers Lane. They would therefore be out of keeping with the character and appearance of the area, where houses on Rucklers Lane are of similar scale and form, even allowing for their varying detailed design.
8. The 2 new houses would not be prominent in the street scene due to their backland siting and limited views from the street. However, they would be prominent in the outlook from neighbouring houses. While their siting would relate more closely to the commercial buildings, those are distinct buildings contained within the established commercial estate. The proposed houses would be large, boxy buildings sited at the end of the gardens of neighbouring properties, and in this context would be incongruous in the area.
9. The replacement dwelling at the front of the site would be of a size, scale and general appearance in keeping with the Rucklers Lane street scene. This element of the proposal would therefore be acceptable.
10. Nonetheless, the proposed development would overall be harmful to the character and appearance of the area. It would therefore conflict with policies CS11 and CS12 of the council's Core Strategy. These policies require, amongst other things, that development integrate with the streetscape character and respect adjoining properties. It would also conflict with policies KL3 and KL4 of the Kings Langley Neighbourhood Plan, the requirements of which include that development conserve or enhance character and demonstrate a high quality of design.

Future occupier living conditions

11. The rear garden to the replacement dwelling would be 60 square metres in area, with a maximum depth of 11 metres, although the proposed bin store would substantially reduce the width of the far end of the garden. Appendix 3 of the council's Local Plan seeks a minimum garden depth of 11.5 metres. Appendix 3 allows for certain circumstances in which smaller gardens would be acceptable, including where gardens of equal depth to adjoining properties. However, the garden would be shallower than those of adjoining properties even at its maximum depth and the development would not otherwise meet any of the identified criteria for smaller gardens. This would result in a poor standard of accommodation for future occupiers that would be detrimental to their living conditions.
12. The tracking diagrams provided with the appeal show that there would be sufficient space within the site to allow cars to manoeuvre in and out of the parking spaces to the rear of the replacement house.
13. The houses to the rear of the site would be set at a lower level than their rear gardens, with stepped accesses between the patio and the raised levels. However, the gardens would be wide and details of fencing, landscaping and any other boundary treatments could be controlled by condition if permission were to be granted. This would ensure that sufficient natural light would reach the garden-facing elevations of the houses, in particular the kitchen windows and patio doors which would provide much of the light to the ground floor accommodation.
14. The rearmost house would have windows facing onto its neighbour's side elevation with limited separation. These would be secondary windows, with the primary windows for those rooms facing onto the rear garden or over the shared access. While outlook from the secondary windows would be restricted, as they are not the main windows the living conditions of the future occupiers would therefore be acceptable in this regard.
15. The proposed rearmost houses would be close to the commercial estate. During my site visit I heard noise from ongoing work on the estate. Policy CS32 of the Core Strategy requires, amongst other things, that development proposals should not cause harm by virtue of noise. The council's environmental health consultee recommended that a noise impact assessment be carried out and any recommendations incorporated if permission were to be granted. The proposed houses would have their main accommodation and outdoor space on the far side of the houses from the commercial buildings. I am therefore satisfied that this could have been secured by condition and the identified requirement of policy CS322 satisfied if I were minded to allow the appeal.
16. Overall, therefore, the proposed development would fail to provide acceptable living conditions for future occupiers with regard to outdoor amenity space. It would therefore conflict with the identified requirements of Appendix 3 of the Local Plan and with policy CS12 of the Core Strategy which, amongst other criteria, states that development should respect adjoining properties in terms of amenity space.

Neighbour privacy

17. One of the new houses would have ground and first floor windows facing existing houses on Rucklers Lane across their rear gardens. These would be secondary windows as noted above. Had I otherwise been minded to allow the appeal, it would have been possible to require that these windows be fitted with obscured glass and with restricted openings to prevent direct overlooking of the neighbouring properties.
18. The appeal proposal would not therefore be harmful to the living conditions of neighbouring occupiers with regards to privacy. It would accord with policies CS12 of the Core Strategy which, amongst other considerations, require that development respect adjoining properties in terms of layout.

Trees

19. The proposal includes the removal of 3 Norway Spruce trees from the site, identified as T2-T4 in the ROAVR Group tree survey. Each of these trees is a category B tree, deemed to have a life expectancy of more than 20 years. Their siting in one corner of the site would conflict with the proposed siting of the rearmost houses.
20. Policies 99 and 100 of the Local Plan and CS12 of the Core Strategy collectively require that a high priority be given to the retention and protection of trees during development. However, they do also allow for their replacement with suitable species if their loss is justified.
21. In this instance the appeal proposal includes the replacement planting of 6 trees within the rear gardens of the rearmost houses. The gardens would be large enough to accommodate suitable replacement planting, the details and long-term retention of which could be secured through suitably worded conditions if I were otherwise minded to allow the appeal.
22. The appeal proposal would therefore be acceptable in regards to its effect on trees. It would accord with the identified requirements of policies 99 and 100 of the Local Plan and CS12 of the Core Strategy.

Other considerations

23. The appeal proposal would be inappropriate development in the Green Belt as it would have a greater impact on the openness than the existing development. The Framework requires that substantial weight is given to any Green Belt harm. Furthermore, the proposal would be harmful to the character and appearance of the area and would fail to provide acceptable living conditions for the occupiers of the replacement dwelling. These considerations add significant further weight against the proposed development.
24. The appellant contends that the appeal site is largely in poor condition, overgrown, contributes little to the Green Belt and the existing house is aging. The council has a shortfall in its supply of housing land, and the development proposed would deliver 2 new houses and one replacement dwelling. This has support in the development plan, which recognises a need to deliver an average of 430 net additional dwellings per year. It would be a more efficient use of the site and support the government's objective of significantly boosting the supply of homes. I am also mindful that the Framework recognises that small and medium sites can be built out quickly. Construction of the

development would provide economic benefits, as would the ongoing occupation of the houses once complete. The benefits associated with a development of this scale are limited but given the shortfall in housing land supply they attract moderate weight in favour of the proposal.

25. This weight does not, however, clearly outweigh the harm by reason of inappropriateness and the other harm that would result from the appeal proposal. Very special circumstances do not therefore exist in this case.

Other Matters

26. The appeal site falls within the zone of influence of the Chiltern Beechwoods Special Area of Conservation (the SAC). If I had otherwise been minded to allow the appeal then as the competent authority it would have been necessary to carry out an appropriate assessment to determine whether the appeal proposal would be likely to result in significant adverse impacts to the integrity of the SAC. However, as I am dismissing the appeal on other substantive grounds I do not need to consider the matter further.
27. The appellant has expressed dissatisfaction with the council's assessment of the proposal in determining the application when it was before them. However, this is a matter between the parties, and falls outside my authority to consider in determining the appeal.
28. I have considered whether planning conditions could overcome the harm that has been identified, and stated where this would be the case. However, in relation to matters of layout and detailed design these are fundamental to the proposal and could not be overcome by conditions.

Conclusion

29. The proposal conflicts with the development plan and the material considerations, including the Framework, do not indicate that the appeal should be decided other than in accordance with it. Therefore, the appeal is dismissed.

M Chalk

INSPECTOR