



Appeal Decision

Site visit made on 17 December 2024

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2025

Appeal Ref: APP/N1920/W/24/3347629

23 Heath Drive, Potters Bar, Hertfordshire EN6 1EN

- 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 & Mrs Carlo & Camilla De Vos against the decision of Hertsmere Borough Council.
 - The application reference is 24/0025/FUL.
 - The development proposed is subdivision of site and the erection of a new-build detached 4-bedroom family dwelling house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 12 December 2024. I have consulted both main parties on the revised Framework and taken any comments received into consideration during the determination of this appeal.
3. The Council's decision notice refers to harm to the privacy of occupants of 23 Heath Drive (No 23) from the proposed window that would serve Bedroom 2. However, this window faces 25 Heath Drive (No 25), not No 23. It is clear from the Council's delegated report that the alleged harm relates to No 25. I have therefore treated this as a typographical error and determined the appeal accordingly. As the appellant has addressed the issue of overlooking to both Nos 23 and 25 in their submission, I do not find that the appellant has been prejudiced by my approach.
4. As the appeal site lies within a Conservation Area (CA), I have paid special attention to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Main Issues

5. The main issues are:
 - whether the development would provide acceptable living conditions for future occupants of the proposed dwelling, having particular regard to outlook and daylight for Bedroom 2;
 - the effect of the proposed development on the living conditions of occupants of No 25 having particular regard to privacy; and,

- whether the proposal would preserve or enhance the character or appearance of the Darkes Lane West Potters Bar CA.

Reasons

6. No 23 is a large, two storey detached dwelling, with accommodation in the roof. It has two vehicular access points, with a large area of hardstanding to the front and side of the property that is used for vehicular parking. The appeal property is sited within a large plot and has a spacious and well landscaped rear garden. The proposal seeks to provide a new dwelling to the side of No 23.

Living conditions of future occupants of the proposed dwelling

7. The proposed window for Bedroom 2 (the smallest bedroom within the dwelling) would face towards the side elevation of No 25. This window would be the sole window for Bedroom 2. Given the distance between the proposed window and flank wall of the adjacent property and the fact that this window would face the central part of the side elevation of No 25 (which limits even angled views), the proposal would result in a very poor outlook for users of this bedroom.
8. I appreciate that the window for Bedroom 2 would be of a reasonable size and that some light would be reflected off the white flank wall of the adjacent property. However, No 25 may not always remain that colour. Given the distance between the flank wall and the proposed window, I am not convinced from the evidence before me that this window would receive an acceptable level of light.
9. The appellant states that a new rooflight could address the issue regarding light. However, there is limited information on where the proposed rooflight would be sited and how this would affect the attic floor, which is shown to extend up to the eaves. Nevertheless, I am required to determine the appeal based on the plans before me, which have been subject to full consultation by the Council. To do so otherwise could prejudice other interested parties.
10. For the reasons given above, I conclude that the proposal would fail to provide acceptable living conditions for future occupants of the dwelling and would conflict with Policy SADM30 of the Hertsmere Local Plan Site Allocations and Development Management Policies Plan November 2016 (SADMPP). This policy among other things seeks to ensure that the living conditions of occupants of the site are acceptable in terms of outlook and light.

Living conditions of occupants of No 25

11. No. 25 has two windows at first floor level on its side elevation that face the appeal site. The appellant advises that one of the windows serves a bathroom and the other is a secondary window for a bedroom. This is not disputed by the Council or third parties. The proposed window for Bedroom 2 would be sited almost opposite the bathroom window at a relatively short distance. At the time of my site visit, the blind to this room was drawn, so it was not possible to confirm whether the glazing for this room was obscured. There appears to be some doubt in the evidence to whether this window is obscure glazed or not.
12. Based on the evidence before me and my site visit, I am not fully convinced that the window in question is obscure glazed. However, even if this window was not obscure glazed, it serves a bathroom and is therefore not a habitable

room. The occupant of No 25 also has the option to close the blind, should further privacy be required. As a result, I find that the proposed window for Bedroom 2 would not result in a harmful loss of privacy to the living conditions of occupants of No 25.

13. In order to prevent overlooking from the stairs, a condition could be secured to ensure that the stairs window is obscure glazed.
14. For the reasons given above, I conclude that the proposal would not be harmful to the living conditions of No. 25. Consequently, I find no conflict with Policy SADM30 of the SADMPP in this regard. This policy among other things seeks to ensure that proposals have an acceptable impact on the living conditions of neighbouring occupants in terms of privacy.

Character and appearance

15. The appeal site lies within the Darkes Lane West Potters Bar CA. The CA covers Heath Drive and adjacent roads, which were part of the early 20th century Potters Bar Garden Estate development. The area is predominately residential in character. Dwellings are typically two storeys high. There are a mix of detached, attached and terraced properties within the locality. Dwellings are typically set well back from the highway. With the exception of the terraced properties which are sited around a grass square, the dwellings on this side of the road generally have a uniformed front building line. The areas of soft landscaping, including the grass verges, street trees and gardens make a positive contribution to the character and appearance of the area.
16. The significance of the CA, insofar as is relevant to this appeal derives from its illustration of an early 20th century garden estate development. The design, layout and form of the buildings along with the area's verdant character contribute towards its significance.
17. The proposed dwelling would be sited to the side of No 23. It would be two storeys high and have a pitched roof. Its front building line would be consistent with the other dwellings along this part of the road. While the proposal would involve the subdivision of a plot, the Council acknowledges that the appeal site represents an unusually wide gap in the street scene. Consequently, both the existing and proposed dwellings would retain good size gardens and their plot sizes would not appear disproportionately narrow when compared to other plots in the immediate locality.
18. I appreciate that a previous Inspector found that a proposed dwelling on the site would cause harm to the character and appearance of the area¹. The previous decision was some time ago and pre-dated the Framework and Hertsmere Local Plan Core Strategy January 2013 (the Core Strategy). It was therefore assessed under a different policy context. The current appeal scheme is of a different design and is narrower in size and has less mass at roof level than the previously dismissed scheme. Furthermore, there has been new development along this road since the previous appeal decision was made, including large two storey side extensions that come very close to their side boundaries. As a result, I find that the previous appeal scheme is not comparable.

¹ APP/N1920/A/09/2112013

19. In this case, the proposed dwelling would be sited away from both side boundaries. While the width of the proposed plot and dwelling would be slightly narrower than other detached dwellings in the locality, its siting in relation to its side boundaries would not be dissimilar to other dwellings that I observed along this road. In fact, the distance from the proposed dwelling to its side boundaries would be greater than some examples that I observed along the street, where two storey built form comes closer to its side boundary than in the current appeal case. As a result, the spacious nature of the street scene would be preserved.
20. Overall, I find that the design and materials would complement the other properties in the locality and would fit in seamlessly in the street scene. The use of stone for the bay window and porch would be minimal, but it would provide a high quality finish. Although this material is not prevalent within the street scene, given the variety of finishes, I do not find it would appear discordant or result in harm to the street scene.
21. I observed on my site visit that windows in the locality are predominately casement windows. While sash windows are not a common feature in the area, the appellants have confirmed that they would be happy to alter the window design. I consider that this matter could be dealt with by condition, if the appeal were to be allowed.
22. The front garden of the appeal site is dominated by hardstanding. While third parties raise concerns about the hedge along the boundary with No 25, the proposed ground floor plan shows soft landscaping along both side boundaries and adjacent to the front boundary wall. Further details of soft landscaping would be required by condition, in order to ensure the verdant character of the locality is preserved.
23. While I appreciate that the appeal site and wider area have been designated a CA since the previous appeal was dismissed, I find no harm to the character and appearance of the locality, as a result, the significance of the CA is preserved.
24. For the reasons given above, I conclude that the proposal would preserve the character and appearance of the area and the CA. The proposal would comply with Policies SP1, CS14 and CS22 of the Core Strategy and Policies SADM3 and SADM30 of the SADMPP. These policies among other things require that development is of high quality design, recognises and complements the local character of the area and conserves or enhances the historic environment.
25. The Council considers the proposal would not accord with the principles of good design that are set out in the Planning and Design Guide Part D Supplementary Planning Document (SPD), June 2013. However, it is unclear from the evidence before me where the conflict arises with the SPD. Given the limited evidence in this respect and the fact that I have found that the proposal complies with the development plan in this regard, I have not considered the SPD further.

Planning Balance

26. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, unless policies in the Framework that protect areas or assets of particular importance provide a strong reason for

refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Although the CA, is an area of particular importance, as the application of policies relating to the CA do not provide a strong reason for refusal, it is necessary to consider whether any adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits.

27. The Council states that their housing land supply position is 2.6 years, which is a significant undersupply. Therefore, it is evident that there is a pressing need for housing when considering this shortfall. The proposal would align with the objectives of the Framework, which seek to significantly boost housing supply and promote the effective use of land. The proposal would provide one new dwelling, which would make a small contribution towards the Council's housing land supply, which I give modest weight in my decision. There would also be short-term economic benefits during the construction of the development, which I give limited weight. Overall, I give the social and economic benefits of the proposal modest weight in my decision.
28. However, the proposal would cause significant harm to the living conditions of future occupants of the proposed dwelling, which would conflict with the Framework, which seeks to ensure a high standard of amenity for existing and future users. Consequently, the adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply.

Conclusion

29. For the reasons given above, having regard to the development plan as a whole and all other relevant material considerations, I conclude that the appeal should be dismissed.

A James

INSPECTOR