



Appeal Decision

Hearing held on 28 January 2025

Site visit made on 28 January 2025

by **O Marigold BSc DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 21 February 2025

Appeal Ref: APP/P1940/W/24/3340719

Land Adjoining 10 Gypsy Lane, Hunton Bridge, Kings Langley, Hertfordshire

- 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 Subhash Lakhani against the decision of Three Rivers District Council.
 - The application Ref is 23/0600/FUL.
 - The development proposed is construction of 2no. semi-detached dwellings with lower ground floor level with associated access, parking and landscaping works; alterations to land levels and boundary treatments including timber fence; provision of bin store, heat pumps and solar panels.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address of the site and the description of the proposal from the Council's Decision Notice, which are more accurate than those used in the application form. I am satisfied that no party would be prejudiced as a result.
3. As part of the appeal, the appellant has provided an amended plan showing a change to the position of the bin store within the site, and another showing revised highway visibility splays. Given the small nature of the changes, I consider that no party would be prejudiced if I take these into account. I shall therefore determine the appeal based on the amended plans.
4. At the Hearing, a draft Unilateral Undertaking (UU) under s106 of the Town and Country Planning Act 1990 was submitted by the appellant. This makes provision for an affordable housing contribution, should I consider it necessary. With my agreement, after the close of the Hearing, a signed version of the UU, dated 14 February 2025, was submitted, which the Council has commented on. I will consider this and the matter of affordable housing below.
5. Since the determination of the planning application by the Council, a new version of the National Planning Policy Framework (the Framework) has been published. At the Hearing, the main parties had the opportunity to comment on the changes. I have therefore determined this appeal with regard to the up-to-date planning policy position.

Main Issues

6. The main issues are:
 - the effect of the proposal on the character and appearance of the area,

- the effect of the proposal on highway safety,
- whether the proposal would make adequate provision for vehicle parking,
- whether the proposal would provide adequate living conditions for the future occupiers of House 2, in respect of privacy,
- the effect of the proposal on the living conditions of the occupiers of number 10 Gypsy Lane (No. 10), in respect of outlook and light, and
- whether the proposal would need to make a contribution towards affordable housing provision.

Reasons

Character and Appearance

7. Gypsy Lane consists of a loose ribbon of dwellings, opposite fields. Many are large, detached properties set back behind frontage gardens and driveways, and with reasonable space to their side boundaries. These include No. 10. The appeal site consists of land that was once part of the garden to No. 10, but which has been divided from it. The land slopes down considerably from the lane.
8. The proposal seeks to erect two semi-detached dwellings, but with a form and design intended to appear as a single property. Behind the main front part of the building would be a two-storey rear projection, and beyond that a further additional single storey extension. These rear elements would be set down at a lower level than the front, reflecting the topography of the site.
9. Policy DM1 of the Development Management Policies Local Development Document (DMP), adopted July 2013, requires proposals to satisfy the design criteria at Appendix 2. These seek to ensure a high quality of built environment and to avoid oversized built form. As such, development at first floor level and above is required to be set in by at least 1.2 metres. Though derived from Building Research Establishment guidance regarding light, it also requires no intrusion into a 45-degree splay area, drawn from a point level with the rear wall of the adjacent property. Appendix 2 further discourages the use of crown roofs, as often resulting in inappropriate bulk and massing.
10. When seen from Gypsy Lane, the proposal would appear as a large, detached dwelling, with a discrete side entrance to House 2. It would be positioned back from the front of No. 10 and have a similar ridge height. However, a corner of the main part of the building, and all of the rear projections, would exceed the 45-degree splay line. The two-storey rear section would have a crown roof, whilst the footprint of the building would fill much of the width of the site and partially wrap around No. 10's garden. As such, it would appear excessive in scale and depth, and conflict with Appendix 2.
11. Moreover, the proposal would be located on or close to the boundary with number 12 Gypsy Lane (No. 12). This dwelling is positioned well away from the boundary, providing a degree of space to the appeal site, albeit heavily wooded. The position of the site within a dip would also limit its impact. Even so, its close proximity to the edge of the site, together with its size, mass and bulk, would result in the proposal having a cramped and constrained appearance, further conflicting with Appendix 2.

12. For the reasons given above, the proposal would have a contrived, overdeveloped appearance. As a result, it would appear harmfully out of place. Replacing the existing frontage hoarding with walling would be a minor visual benefit, but could be achieved without the proposed dwellings. The approved dwelling at 18 Hunton Bridge Hill, to the rear of the site, appears from the plans before me to have some space to its boundary with the appeal site, and so is not directly comparable to the proposal before me.
13. I therefore conclude that the proposal would harm the character and appearance of the area, thereby conflicting with DMP policy DM1 and Appendix 2, as well as policies CP1, CP3 and CP12 of the Council's Core Strategy (CS), adopted October 2011. These require development to respect local distinctiveness and to have a high standard of design. It would similarly conflict with the requirement of Framework paragraphs 135 and 139 for development to be well-designed and sympathetic to the surrounding built development. As such, I give this conflict substantial weight.

Highway Safety

14. Gypsy Lane hereabouts is narrow, has bends, and is bounded by high hedgerow. In some places, including outside of the site, it has no footway. At its junction with Hunton Bridge Hill, a sign warns drivers about cyclists in the road who, along with pedestrians, are directed via Gypsy Lane towards the Grand Union Canal. The lane is a no through road for vehicles, but it nevertheless serves an appreciable number of dwellings, including those on nearby Fernhills road.
15. A few dwellings hereabouts take their access directly off Gypsy Lane, including No. 10. The proposal would utilise an existing entranceway off the lane. It would intensify use of the site, which currently only serves former garden land. The proposed forecourt would allow vehicles to enter and leave in forward gear, and only two car parking spaces are provided, limiting the number of traffic movements using the access. No accident data is before me.
16. Manual for Streets identifies a correlation between visibility and carriageway width, and vehicle speeds. On this basis, given the narrow width and constraints of Gypsy Lane, traffic speeds are likely to be below the speed limit. However, no site-specific speed survey or traffic count evidence has been submitted. As a result, the Highway Authority dispute whether the splays shown¹ would provide sufficient sight stopping distance to avoid a risk of collision between vehicles leaving the site and those already on Gypsy Lane.
17. Even if I were to accept the appellant's position that the suggested splays would be appropriate, the northern 'Y' distance encroaches into land within the front garden of No. 10. This land is outside of the appellant's control. As such, there would be nothing to prevent a future occupier of No. 10 from planting, for example, a tall hedge within their boundary, which would obstruct the splay. This means that drivers leaving the site would have very little visibility of oncoming traffic. Consequently, I am concerned that the proposal would result in an additional risk of collision to road users on Gypsy Lane.
18. The use of measures such as a roadside mirror was suggested at the Hearing, but no specific details are before me. Furthermore, this may involve land outside of the

¹ On Plan GYPH-A1-10.5

appellant's control. I have insufficient evidence that such a measure would be successful or could be secured in the long term. It does not therefore overcome my concerns.

19. Accordingly, the proposal would have a harmful effect on highway safety. It would thus conflict with CS policies CP10 and CP12 which require safe and adequate means of access. I give this substantial weight, bearing in mind the similar requirements of Framework paragraphs 115 and 135. However, CS Policy CS1 does not refer to this issue, and so I find no conflict with it.

Parking

20. DMP policies DM1 and DM13, and Appendix 2, require that development should make provision for adequate parking in accordance with standards set out in Appendix 5. These require 4.5 spaces for the proposal, but it would provide only two. The standards are derived from a previous Local Plan (1996 to 2011), but nevertheless form part of the DMP adopted in July 2013. Having regard to Framework paragraph 232, I have little substantive evidence to suggest that they are inconsistent with the Framework, including Paragraph 112 which permits local parking standards. There is no dispute that the proposal would not comply with the requirements of Appendix 5. It would therefore conflict with policies DM1 and DM13.
21. The site has reasonable access to services and facilities, including retail and local bus services. This may well reduce the need for additional parking, though accessing these facilities on foot would require use of the constrained Gypsy Lane. The Council and the appellant agree that vehicles would not park immediately outside of the site. Instead, any additional parking beyond that catered for on-site is most likely to take place in nearby roads.
22. Fernhills has no parking restrictions, although other roads locally do have double yellow lines in places. I saw that some spaces were available in Fernhills during my lunchtime visit, but this represents only a snapshot in time. No detailed evidence of car parking in the area, such as during evenings and weekends, is before me. As such, it is possible that the off-site parking need generated by the proposal would result in pressure on nearby streets. This could cause obstruction to the free flow of traffic, potentially harming highway safety, and cause inconvenience to local residents.
23. For the reasons given above, I conclude that the proposal would conflict with DMP policies DM1 and DM13, and Appendix 2 and 5. It would also conflict with CS policies CP10 and CP12 which require development to make adequate, safe and convenient provision for parking. I give this substantial weight, bearing in mind the requirements of Framework paragraphs 115 and 135. However, I find no conflict with CS Policy CP1, which does not refer to parking.

Living Conditions of Future Occupiers of House 2

24. No. 10 is a two-storey dwelling. To the rear of this property are windows at ground and first floor level, together with a patio and amenity space. Steep steps lead down to a lower garden area. The proposal would use land to the rear of the site as garden to House 2.

25. A degree of mutual overlooking is to be expected in built-up areas such as the appeal site and its surroundings. However, in this case, the site levels mean that the rear elevation and patio of No. 10 are much higher than the garden that would serve House 2. As such, despite the existing boundary hedgerow, occupiers of No. 10 would look down into the garden to House 2, particularly when using the patio. This would have an intrusive impact on future occupiers of the garden, providing them little if any private outdoor area, and consequently a poor standard of amenity.
26. On this basis, the proposal would not provide adequate living conditions for the future occupiers of House 2 in respect of privacy. It would therefore conflict with DMP policy DM1 and Appendix 2, and CS policy CP12, which identify the importance of privacy and residential amenity. I give this substantial weight, having regard to the aim of Framework Paragraph 135 for a high standard of amenity for future users.

Living Conditions of No. 10

27. I have already found that the proposal would intrude into the 45-degree area required by Appendix 2. The main part of it would extend beyond the rear wall of No. 10, at a two-storey height plus roof. Additional built form would project into the rear of the site, partially around the amenity space of No. 10.
28. However, only a relatively small part of the tallest part of the proposal would protrude beyond the rear wall of No. 10. The rest of it would be set down into the falling ground levels and would be partially screened by the landform and boundary treatments. It would also have pitched roofs angled away from No. 10. On this basis, the proposal would not have an unduly overbearing or oppressive effect on the amenity space of No. 10.
29. Despite some references to the contrary in written evidence, at the Hearing the Council confirmed that its concerns only related to outlook to No. 10, rather than in respect to sunlight or daylight. I see no reason to disagree.
30. For these reasons, I conclude that the proposal would not have a harmful effect on the living conditions of the occupiers of No. 10 in respect of outlook or light. Although it would conflict with DMP policy DM1 by breaching the 45-degree standard of Appendix 2, it would otherwise comply with the aim of the policy, and of CS policy CP12, to protect existing amenities. This matter is therefore neutral in the planning balance.

Affordable Housing

31. CS Policy CP4 expects 45% of all new housing to be affordable. For small sites such as the proposal, this may be provided through commuted payments for housing elsewhere. Such contributions are payable, unless it can be shown that they would make the scheme unviable.
32. Policy CP4 was adopted prior to the publication of the Written Ministerial Statement in November 2014. This made clear that affordable housing should not be sought for developments such as the proposal. As a result, for a time, the Council did not require affordable housing contributions from some schemes, including for the development now built at 18 Hunton Bridge Road.

33. However, the Council has recommenced requiring such contributions. This follows evidence of the very high house prices and pressing need for affordable housing in the District², which is not disputed. The Council's Annual Monitoring Report for 2023/2024 shows that, out of 17 sites of one or more houses, six made commuted sums. The use of such sums from small-scale development therefore makes a meaningful contribution to addressing the housing needs of the District.
34. The PPG and Paragraph 65 of the new Framework state that affordable housing should not be sought for non-major residential developments, as here. The need to make financial contributions, or to justify non-viability, results in additional costs and delay particularly to small-scale housing schemes. I understand that some development plan policies in other areas, including in parts of London, do not seek contributions from small-scale proposals.
35. Even so, policy CP4 remains the adopted policy within the District. I am mindful that the new Framework re-states previous national policy, rather than indicating a change in the direction of the Government. As such, given the acute need for affordable housing locally, and the contribution that small sites make to reducing this need, I give greater weight to CS policy CP4 than to Framework Paragraph 65.
36. Where non-viability is cited for non-compliance with these requirements, policy CP4 requires justification by way of a financial viability assessment. Viability was a matter of dispute between the main parties, including in respect of land values and build costs. However, at the Hearing, the Council and the appellant were able to agree on a contribution that would make some provision for affordable housing whilst not making the proposal unviable. I see no reason to dispute the amount, and the contribution, secured by the UU, would meet the requirements of Regulation 122 of the Community Infrastructure Levy Regulations 2010.
37. For the reasons given above, I conclude that the proposal would need to make a contribution towards affordable housing provision, and that the amount secured would be sufficient to comply with CS policy CP4. Given its size, this attracts limited positive weight in favour of it.

Other Considerations

38. The Council accepts that it cannot currently demonstrate an adequate supply of housing land. Prior to publication of the new Framework, this was estimated at only 1.9 years' worth of supply. At the Hearing, it was confirmed that this has deteriorated because of the new Framework. Using the most recent figures, the Council has similarly failed to meet the requirements of the Housing Delivery Test, a situation which has also worsened.
39. As such, it is necessary for me to determine whether the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits inherent in providing additional dwellings to assist the Council in addressing its undersupply, as set out in Paragraph 11 of the Framework.
40. I have found conflict with DMP policies DM1 and DM13, and CS policies CP1, CP3, CP10 and CP12, which are consistent with the Framework. I therefore find that the proposal would conflict with the Development Plan as a whole. Against

² Appendix D to the Council's Statement.

that, it would make a positive contribution to the supply of housing. Its future occupiers would have positive social and economic effects, and its construction would assist the building industry. The proposal would make efficient use of land in a location that is reasonably sustainable.

41. However, due to the proposal being for only two dwellings, I give these benefits only moderate positive weight in favour of it. The contribution to affordable housing carries additional limited positive weight. In light of my findings above, Framework Paragraph 125 does not provide support for the proposal.

Planning Balance and Conclusion

42. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission, and therefore appeals, must be determined in accordance with the Development Plan, unless material considerations indicate otherwise. Given the harms that I have identified, and the weight I ascribe to them, I consider that the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.
43. The material considerations in this case, including the Framework, do not indicate a decision other than in accordance with the Development Plan. This leads me to conclude that the appeal should be dismissed.

O Marigold

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Richard Humphreys – Peter Pendleton & Associates Ltd
John Hilton – Hilton & Wallace Planning Development & Design
Mark Smith – Affordable Housing Viability Consultant

FOR THE LOCAL PLANNING AUTHORITY:

Scott Volker – Principal Planning Officer, Three Rivers District Council (TRDC)
David Coate – Adams Integra, TRDC Viability Consultant
Sarah Forty – Development Officer, Hertfordshire County Council Highway Authority
Adam Whinnett – Development Officer, Hertfordshire County Council Highway Authority

DOCUMENTS HANDED IN DURING AND AFTER THE HEARING

1. Draft Unilateral Undertakings
2. Signed and dated Unilateral Undertaking