



Appeal Decision

Site visit made on 21 October 2014

by **A Banks BA(Hons) DipUD PGCM MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 November 2014

Appeal Ref: APP/J1915/A/14/2223864

77 The Chestnut Veterinary Group, Fore Stret, Hertford SG14 1AL

- 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 RJH & JH Andrew against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/0376/FP, dated 27 February 2014, was refused by notice dated 21 May 2014.
 - The development proposed is the demolition of existing buildings and the redevelopment to form 4 number residential dwellings, parking and ancillary works.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the area and whether it would preserve or enhance the character or appearance of the Hertford Conservation Area; and
 - the living conditions of the occupiers of neighbouring dwellings in Bridewell Mews, with particular regard to outlook and light.

Reasons

Character and appearance

3. The appeal site comprises a small courtyard which is accessed through an archway under and between three storey high town centre buildings that front onto Fore Street. It is one of a number of rear courtyards which can be glimpsed between the gaps of buildings in the town centre and which contribute to the historic context of the Hertford Conservation Area (CA). A fairly random range of compact single storey and one and a half storey buildings, along with a dog run occupy the site. Behind the site and comparatively close there is a modern three storey residential development. To either side of the site there are other courtyard areas also accessed from Fore Street. One has three storey development which encloses much of the appeal site on the eastern side. On the western side the neighbouring courtyard has a similar character to that of the appeal site with a distinct building which is similar in appearance and period to the traditional red brick building on the western side of the appeal site.

4. The proposed terraced dwellings to the west side would have the same footprint as the building that would be demolished. But they would be significantly higher matching the three storey height of the buildings in Bridewell Mews. Despite the slight step back where the terrace is closest to the adjacent Bridewell Mews, I consider its proximity is such that the terrace would lack a sense of independence. It would instead read as a bulky uncoordinated and conflicting extension. There is also no sense of harmonisation or balance with the rest of the proposed and adjoining buildings along the rear boundary of the site. These lower proposed buildings would, because of the awkward shapes necessary to reduce the impact on neighbouring developments, appear clumsy, chaotic and cramped. Moreover I consider that this would be the appearance of the proposal visible through the archway on Fore Street. The height and bland appearance of the rear elevation of the proposed three storey terrace would appear ungainly and domineering in comparison to the traditional red brick building within this courtyard area. Thus I consider the proposal would detract from the historical scale and quality of these courtyards which form an integral part of the character of the CA.
5. For these reasons I conclude that the proposal would harm the character and appearance of the area and would fail to preserve or enhance the character or appearance of the Hertford Conservation Area. Consequently it would be contrary to Saved Policies ENV1, HSG7 and BH6 of the East Herts Local Plan Second Review 2007 (LP) insofar as these seek to ensure a high standard of design which reflects and relates to local character and preserves or enhances the character or appearance of the CA.

Living conditions

6. The proposed three storey terrace to the west would result in a solid structure that is approximately 2 metres south of windows and a balcony serving No 3 Bridewell Mews. I consider that it would block two of the three open sides to these aspects which would result in an enclosing and claustrophobic effect on the outlook of the occupiers when in these rooms.
7. The proposed two storey dwelling (plot 4) on the rear boundary would have a similar effect on No 1 Bridewell Mews that is approximately 2.5 to 3 metres north of the appeal site. The solid wall that currently exists on the boundary between No 1 and the appeal site would be raised by at least 1m. Drawing No 13500/04 revision C does not take into account that the current wall is approximately 1.7m high with a 0.9m vertical open slatted fence on top which allows light through it and into No 1's amenity area. Added to this the single storey element of the proposed new dwelling at this point would be both closer to No 1 and higher than the existing building on the appeal site. I consider that the effect of these elements would be a significant reduction in the amount of sunlight that currently reaches into the courtyard amenity space and ground floor window serving the kitchen and living room of No 1. Added to this I consider the proximity of the proposed dwelling and, despite the catslide design, the unrelenting expanse of roof would have an overbearing and oppressive impact on the outlook of the occupiers of No 1.
8. I therefore conclude that the proposal would have a detrimental impact on the living conditions of the occupiers of neighbouring dwellings in Bridewell Mews, with particular regard to outlook and light. This would be contrary to LP Saved

Policy ENV1(d) which seeks to ensure a high standard of design which respects the amenity of occupiers of neighbouring buildings.

Conclusion

9. For the reasons given above and having regard to all matters raised, including the comments of neighbours, I conclude that the appeal should be dismissed.

A Banks

INSPECTOR

Appeal Decision

Site visit made on 10 November 2014

by **J L Cheesley BA(Hons) DIPTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 12 November 2014

Appeal Ref: APP/J1915/D/14/2226108

26 Musley Lane, Ware, Hertfordshire SG12 7EW

- 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 Terry Clark against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/0872/FP was refused by notice dated 8 July 2014.
 - The development proposed is a side extension with bedroom in loft space.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has raised concern regarding the Council's reference to a front gable, when the proposal includes a hip-ended front projection. A 'front gable' is not specifically mentioned in the Council's Decision Notice, although it is mentioned in the Summary Report. It is clear from the representations that the proposed front roof projection is the Council's main concern and I have determined the appeal before me on this basis.

Main Issues

3. I consider the main issues to be the effect of the proposal on the character and appearance of the existing dwelling and the wider streetscene.

Reasons

4. The appeal site lies within a primarily residential area and comprises a chalet bungalow of modest scale. It is in distinct contrast to the two-storey dwellings in the immediate vicinity, in terms of both scale and design and is set back behind the general building line.
5. The proposal includes the demolition of the existing garage and the addition of a side extension with a hip-ended front projection incorporating a dormer, which would match the existing dormer in the main roof. The roof of the front projection would reach the ridge height of the existing main roof. The hip end fronting the road would dominate the frontage of the dwelling, particularly due to its bulk, width and the inclusion of the dormer.
6. From my observations, due to the scale, siting, massing and design of the proposal, I consider that it would unacceptably dominate the modest scale of

the existing dwelling, to the detriment of the character and appearance of the dwelling. Whilst the extended dwelling would still continue to be significantly smaller than surrounding dwellings, I consider that the proposal, for the reasons stated above, would detract from the character and appearance of the surrounding area to the detriment of the streetscene.

7. In reaching my conclusion, I have had regard to all matters raised. I conclude that the proposal would have an adverse effect on the character and appearance of the existing dwelling and the wider streetscene. Thus, the proposal would be contrary to Policies ENV1, ENV5 and ENV6 in the East Herts Local Plan Second Review (2007) where these policies seek a high standard of design to reflect local distinctiveness and seek the design of residential extensions to complement the original building.
8. I consider the policies referred to above are broadly in accordance with the National Planning Policy Framework as far as they meet the Framework's core principles; particularly that planning should be seeking to ensure high quality design and should be taking account of the different roles and character of an area.

J L Cheesley

INSPECTOR



Appeal Decision

Site visit made on 14 October 2014

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17 November 2014

Appeal Ref: APP/J1915/A/14/2224598

Sacombe Corner Wood Frogmore Hill Aston Watton at Stone Hertford SG14 3RS

- 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 Gary Madgin against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/0921/FP, dated 20 May 2014, was refused by notice dated 31 July 2014.
 - The development proposed is the retention of loose gravel paths through woodland from re-instated vehicular access onto an unclassified road.
-

Decision

1. The appeal is allowed and retrospective planning permission is granted for loose gravel paths through woodland from re-instated vehicular access onto an unclassified road at Sacombe Corner Wood Frogmore Hill Aston Watton at Stone Hertford SG14 3RS in accordance with the terms of the application, Ref 3/14/0921/FP, dated 20 May 2014 and the plans submitted with it.

Procedural Matter

2. 'Retention' is not an act of development. I will therefore deal with the appeal on the basis that it is a retrospective planning application for loose gravel paths through woodland from re-instated vehicular access onto an unclassified road.
3. The High Court decision on Redhill Aerodrome Ltd v SSCLG and others was brought to the attention of the parties during the course of the appeal. An opportunity was given to comment on it if it was considered relevant by the parties. However this judgement was overturned on 9 October 2014. I have therefore made my determination in accordance with the procedures pre the Redhill Aerodrome case.

Main Issues

4. The appeal site is within the Metropolitan Green Belt. As such I consider that the main issues in this case are:
 - Whether the proposal amounts to inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (the Framework) G2) and development plan policy;

- The effect of the proposal on the openness of the Green Belt and the character and appearance of the area; and
- If it is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

Reasons

Green Belt and Openness

5. At the time of my site visit the tracks comprised land topped with recycled road plantings, although the eastern section of track, which links into the stable yard area, comprised tarmac surface on a steeply sloping section of land, to accommodate the difference in levels between the wooded area and the stable yard sited on lower ground. Another 2m strip of tarmac is shown on the submitted plans adjacent to Frogmore Hill to prevent migration of road plantings onto the highway.
6. The plantings are stated to have been spread onto the existing tracks. At least part of the tarmac element of the eastern track is within the appeal site. There did not appear to be any 'kerb' to support the edges of the access track. The track is roughly 'Y' shaped, leading from the access at the western side of the appellant's land from Frogmore Hill, with one 'arm' extending to the southern edge of the woodland and the second 'arm' extending to the east and ending at the stable yard. The north south track is stated to be approximately 3m wide.
7. I accept the parties' views that the track constitutes an engineering operation, albeit that it is a simple form of hard surfacing, and it appears that the plantings have simply been laid on top of the existing ground although the tarmac is more substantial due to the slope it traverses. Paragraph 90 of the Framework states that engineering operations are not inappropriate in the Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in the Green Belt. I note that both the Council and the appellant consider that the appeal development does not harm openness nor any purpose of including land within the Green Belt.
8. However, whilst there is no definition of openness, the courts have held that 'openness' is the absence of development. As such, the laying of plantings and tarmac results in the introduction of 'development' on the track. There is a noticeable change in the surface of the land from undeveloped land to plantings/tarmac.
9. The effect of the access track on the openness of the Green Belt, results in very little harm to openness, however it does have some effect as it results in land that was free from development being developed and thus affecting openness. It also represents an encroachment into the countryside. Although these effects would be minor there would be some loss of openness and some conflict with one of the purposes of including land in the Green Belt. As such, the development has to be regarded as being inappropriate development in the Green Belt.

10. According to Government advice inappropriate development is, by definition, harmful to the Green Belt. Very special circumstances must exist which clearly outweigh this and any other harm before such development can be allowed and it is for the appellant to show why permission should be granted.

Character and Appearance

11. Sacombe Corner Wood is the subject of a Tree Preservation Order for the woodland (P/TPO 574). It is recorded as being a woodland comprising mainly of mixed hardwoods e.g. Ash, Elm, Field Maple, Hazel, Hornbeam, Holly and Oak. The Council object to the 'unnatural straight alignment' of the east west track. It is also concerned about the effect of the development on the long term health, and thus retention of the trees within the woodland. Issues in relation to harm to biodiversity if the woodland is lost or damaged area also raised.
12. The plans indicate that the tracks are approximately 3m wide. There are limited views of the track from outside of the appeal site. The plantings are dark and blend in with the floor of the woodland. The tarmac is more noticeable, but is seen from within the site in the context of the hard surfaced yard and the single storey stable block. The alignment of the east west track follows the wayleave for the overhead power lines and does not look out of place within the site. The tracks are low key in nature and not visually harmful to the character and appearance of the countryside.
13. The appellant states that the track has been insitu for three years. The appellant's arboricultural report records that the plantings are about 100mm deep and have prevented rutting and compaction to the underlying soil. It goes on to state that provided the level and character of the use remain the same i.e. light vehicles making daily visits to feed animals the risk to trees will remain low.
14. The tracks have been insitu for some time and there does not appear to be any substantiated evidence that this has resulted in harm to the health of existing trees. There is no indication that the use of the tracks is likely to increase and they appear to provide a simple solution to moving necessary materials from the barn in the woodland to the stable yard area using a vehicle. As the evidence does not indicate that the tracks are likely to result in harm to the woodland there would be unlikely to be harm to the biodiversity of the woodland.
15. As such, I consider that the appeal scheme does not harm the character or appearance of the area and there is no substantiated evidence that it has or would in the future harm the health of the existing trees or biodiversity on the appeal site. This complies with Policies ENV1, ENV2 and ENV11 of the East Heart Local Plan Second Review (April 2007) which require development to be of a high standard of design and layout to reflect local distinctiveness, to retain and enhance existing landscape features and protect existing hedgerows and trees.

Other considerations

16. The appellant states that regardless of whether the tracks are provided that he is entitled to access his land for any legitimate purpose and the

alternative to the tracks is to drive agricultural vehicles over the land which could result in a rutted appearance to the ground where individual wheels of vehicles would cause greater compaction. In my view, this scenario is likely to occur if the tracks are removed. This being so the fallback position of using the land with no tracks which may result in rutting of the land on routes used by vehicles is an important material consideration to which I must attach substantial weight.

Overall Conclusion

17. The tracks are inappropriate development which is by definition harmful to the Green Belt. The Framework states that inappropriate development should not be approved except in very special circumstances. I have also found some loss of openness and some conflict with one of the purposes of including land in the Green Belt. For the appeals to succeed the combined weight of other considerations must clearly outweigh the totality of the harm arising. Set against this is the fallback position which is highly significant.
18. This being so, I conclude that all harm arising from the tracks is clearly outweighed by the other considerations summarised above. I further conclude that the very special circumstances necessary to justify the retrospective planning permission for the tracks exist and the appeal succeeds.
19. The Council has suggested a condition requiring the development to be carried out in accordance with the stated plans and no other conditions. As the appeal relates to a retrospective application it is not appropriate to impose such a condition. No other conditions are suggested and I consider that none are necessary or justified.

Hilda Higenbottam

Inspector

Appeal Decision

Site visit made on 27 October 2014

by **J Flack BA Solicitor**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 5 November 2014

Appeal Ref: APP/J1915/D/14/2225886

18 Larkspur Close, Bishop's Stortford, Hertfordshire CM23 4LL

- 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 De-Paiva against the decision of East Hertfordshire District Council.
 - The application Ref 3/14/1037/FP, dated 9 June 2014, was refused by notice dated 5 August 2014.
 - The development is described as proposed front dormer.
-

Decision

1. The appeal is dismissed.

Procedural matter

2. The appellant's surname is stated as "De-Pavia" in the appeal form, but I have treated this as a typographical error given that it is stated as "De-Paiva" in the application and other documents before me.

Main Issue

3. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

4. The appeal property is a detached modern house located at the corner of Larkspur Close and Monkwood Drive. These form part of an extensive network of residential streets: the appellant states that these were built as part of a substantial expansion of Bishop's Stortford. The dwellings in these streets appear to be of similar ages, and Larkspur Close is not untypical in the general uniformity of the dwellings within it. However, across the wider network of streets there is a notable variety in scale, layout and design approaches within the range of typical suburban styles of the period.
5. There are few dormer windows facing the street in Monkwood Drive, but they are a frequent feature of the houses in Larkspur Close. However, the appeal property is typical in that its single front dormer is located within a subordinate projection from the main element of the house, this projection being lower than main element and housing a twin garage at ground floor level, and residential accommodation within the roofspace. The window is therefore located at first floor level, and I saw on my site visit that front dormers of dwellings in

Larkspur Close and Monkswood Drive all appear to serve accommodation at first floor level, this forming an distinctive aspect of the design of these dormers and thus of the dwellings of which they form part.

6. The proposed dormer would however form part of a scheme to create an additional storey of accommodation within the roofspace. Whilst the pitched roof design and materials would conform to those of the existing dormer within the garage projection and similar dormers in nearby houses, the proposed dormer would nevertheless be a jarring and discordant feature given its elevated location within the roof of the main element of the house, and that it would be noticeably larger than the existing dormer.
7. The proposed dormer would therefore be unacceptably at odds with the design of the host dwelling, to which it would relate poorly. This would be exacerbated by the prominent corner position of the dwelling; the proposed dormer would be highly visible in the street scene within both Larkspur Close and Monkswood Drive, and it would conflict significantly with other dwellings in the immediate area.
8. The appellant has cited various other front facing dormer windows located above first floor level for which the Council has granted planning permission. However, the nearest of these, at Primrose Close, is some streets away from the appeal property. The appellant considers that the Council has applied too narrow an approach to defining the area of the dwelling in assessing the proposal. I disagree, and consider the Council's approach appropriate: this network of streets is too extensive to be perceived as a single area for the purposes of assessing character and appearance, and given the variety of dwellings I have noted above I consider that it does not read, and should not be treated, as a single uniform estate.
9. Given that context, I consider that the examples cited in Mercers Avenue and Drovers Way are clearly distinguishable from the proposal given the various other examples of similar windows in these streets. Whilst that does not appear to be the case in relation to the front dormers at 43 Primrose Close to which the appellant also refers, this single dwelling does not count significantly in favour of the proposal, and the appellant does not dispute the Council's statement that it has refused permission for two proposals for front dormer windows in Woodpecker Close, a street located somewhat closer to the appeal property than Primrose Close.
10. I have therefore concluded that the appeal proposal would cause unacceptable harm to the character and appearance of the area. The proposal would be contrary to the design criteria and objectives of Policies ENV1, ENV5 and ENV6 of the Local Plan¹, which include that roof dormers must be appropriate to the design and character of the original dwelling and its surroundings.
11. These policies do not in my view conflict with the statement at paragraph 59 of the National Planning Policy Framework that design policies should avoid unnecessary prescription of detail, and I consider that the proposal would be contrary to the statement at paragraph 58 that planning decisions should aim to ensure that developments, amongst other things, will add to the overall quality of the area, respond to local character and reflect the identity of local surroundings.

¹ East Herts Local Plan Second Review April 2007

12. I have taken into account all other matters raised in the evidence before me, including that the Town Council raises no objection to the proposal, but none is sufficient to disturb my conclusion on the main issue. The appeal is therefore dismissed.

J Flack

INSPECTOR