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## Appeal Decision

Site visit made on 13 October 2014

by **C L Sherratt DipURP MRTPI**

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

Decision date: 8 December 2014

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**Appeal Ref: APP/J1915/A/13/2204849**

**Garage site to the North of 9 Three Stiles, Benington, Stevenage SG2 7LD**

- 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 South Anglia Housing against the decision of East Hertfordshire District Council.
  - The application Ref 3/12/2063/FP, dated 4 December 2012, was refused by notice dated 14 August 2013.
  - The development proposed is for the demolition of the existing 3 no. garage blocks and the erection of 4 no. two storey semi-detached houses with three bedrooms, private amenity space and car parking.
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### Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing 3 no. garage blocks and the erection of 4 no. two storey semi-detached houses with three bedrooms, private amenity space and car parking at Garage site to the North of 9 Three Stiles, Benington, Stevenage SG2 7LD in accordance with the terms of the application, Ref 3/12/2063/FP, dated 4 December 2012, and the plans submitted with it, subject to the conditions set out in the Schedule attached.

### Main Issues

2. The main issues are the effect of the development on:
  - (a) the availability of off-street parking in the area;
  - (b) the character of the area.

### Reasons

3. The proposal comprises the demolition of three garage blocks and the erection of 4 no. three bedroom affordable dwellings. The appeal site is located to the rear of existing properties. It would be accessed using the existing single width access that serves the garages, situated between 8 and 9 Three Stiles.
4. The village of Benington lies within the Rural Area beyond the Green Belt. It is designated as a Category 2 village where saved Policy GBC3 of the East Herts Local Plan Second Review (LP) allows for limited infill development in accordance with Policy OSV2 (ii). Policy OSV2 stipulates that infill housing development which meets a local need may be permitted within the built up area of the village. The appeal site is adjacent to Benington Conservation Area.

### Off-street parking provision

5. It is accepted that sufficient off-street parking would be provided to meet the parking requirements of future occupiers of the proposed development in accordance with the Council's Supplementary Planning Document on Parking Standards. However, 25 garages would be demolished should the development proceed. The Council is concerned that the additional pressure for on-street parking would be detrimental to the living conditions of the occupiers of existing properties, particularly having regard to the approval of two similar schemes in the immediate area.
6. The results of an occupancy survey in October 2012 demonstrated that 13 garages were void and of the 12 let to Benington residents, 4 were used for parking. However, 2 tenants did not respond so it may be that a further 2 garages were potentially used for parking and the rest for storage. The appellant no longer makes these garages available having terminated all agreements which concluded in March 2013. Indeed, there is no obligation upon the appellant to provide the garages or make alternative off-street parking available.
7. The appellants commissioned a parking survey undertaken at 04.00 hrs on consecutive week days in March 2013. It is not clear to me, how many of the tenancy agreements for the garages had already expired at this stage although at most, there would have been no more than 6 that were still used for parking based on the earlier occupancy survey. The parking survey demonstrated that along Three Stiles and Blacksmiths Hill the full displaced car parking (25 spaces) could easily be accommodated, although given the restricted width of the road in some areas, this would include those sections where I saw that vehicles are parked partially mounted on the footpath. Bearing this in mind, even if only half the spaces identified on the survey had been available, these would have accommodated 22 vehicles; far in excess of the 6 garage spaces used for parking a vehicle. At the time of my visit, there were on-street parking spaces available close to the site. However, I am mindful that I visited during the day when many residents would have been at work.
8. I saw that the survey looked at availability over quite a distance and potentially over a distance beyond that where residents may reasonably be expected to walk. Nevertheless, existing residents with no off-street parking purchased their properties in that knowledge and so must expect that it may not always be possible to park outside or close to their property. Given the availability of spaces, I find it unlikely that the demolition of the garages on the appeal site, would add to the competition for on-street parking to such an extent that it would unduly compromise the living conditions of existing residents.
9. The Council found no reason to withhold planning permission for the two other applications that involve the demolition of garage blocks and the erection of houses on land off Blacksmiths Hill. The current proposal would not add substantially to the number of displaced parking spaces already permitted by the Council, even assuming the tenancy agreements for the 6 garages used for parking had not expired at the time of the parking survey.
10. To conclude, the proposed development would not unacceptably harm the amenities of existing residents by virtue of the loss of existing parking provision or increased demand for on-street parking. I find no conflict with LP Policy ENV1 in this regard.

### Character of the area

11. The site is situated to the rear of existing properties and so will not be read as part of the street scene. The site clearly forms part of the built-form of the village, being an existing developed site. In light of this, I do not accept the Council's proposition that the development would encroach into the countryside; it already does so. The development would therefore satisfactorily integrate into the existing built form of the village and I find no conflict with Policy OSV2 as a matter of principle.
12. The appeal site is adjacent to Benington Conservation Area. The existing garage blocks do not enhance the quality of the area. It is appreciated that the two storey properties would introduce a taller form of development into the site than the existing garages. However, the development would respect the character and visual quality of the area. It would be more in keeping and sympathetic to the surrounding area than the existing garage blocks.
13. There are no trees on the site itself but there are trees adjoining the site which are to be protected. A tree survey and ecological survey accompany the application which recommends that method statements are agreed.
14. To conclude, the proposed development would not harm the character and appearance of the surrounding area. I find no conflict with policies EV1 and OSV2 that require development proposals to be sensitively designed and demonstrate compatibility with the structure and layout of the surrounding area and complement the existing grain of development.

### Other matters

15. The access to the appeal site is only single width. As well as providing access to the garages, there is access to the rear of properties 9, 9a, 10 and 10a Three Stiles. It is proposed that all of these rights of access would be retained. Such matters would nevertheless be private matters between the occupiers of the properties that lawfully benefit from these rights and any forthcoming planning permission would not avoid any responsibility on the developer to maintain any lawful rights of access. In addition there is a claimed right of way at the sites north east corner which provides access onto the footpath and the surrounding open fields which should be retained.
16. There would be some conflict between vehicles and pedestrians using the site access. However, vehicles would be travelling at slow speeds and it is a conflict that already exists. Indeed, if the garages were fully occupied for the use of parking resident's vehicles, the conflict would potentially be greater. Furthermore, I am mindful that the relevant highway authority is satisfied that the existing width of access is adequate to serve four residential properties. In addition, for a development of 5 units or less, the highway authority would not request turning facilities for emergency or refuge vehicles as access would be onto a residential road.
17. Given that no turning head is provided within the site that would enable access by some emergency vehicles, a comprehensive sprinkler system with detectors would be required within the dwellings to satisfy building regulations approval in relation to fire safety. It would be necessary for residents to transport their bins and recycling boxes down the access road on collection day, in excess of the Council's maximum distance. These are not considerations that would

justify planning permission being withheld for an otherwise acceptable scheme that would help boost the supply of housing in accordance with the government's objectives.

#### Conditions

18. The Council has suggested a number of conditions that should be imposed on any planning permission should the appeal succeed. It would be necessary to impose a statutory time limit to comply with the requirements of the Act and to ensure that the development is carried out in accordance with the approved plans.
19. To safeguard the character and appearance of the area and of the development, I agree that it is necessary to agree details of external materials, boundary treatments, the protection of existing trees, hard and soft landscaping and external lighting. A method construction scheme is necessary to protect the living conditions of nearby residents throughout construction. To ensure adequate amenity for future residents, details of measures for the storage and removal of refuse shall be agreed. A scheme of measures to address any land contamination and groundwater issues together with the subsequent implementation of an agreed scheme is necessary to minimise and prevent pollution of the land and the water environment. Surface water drainage works should be agreed and implemented to ensure surface water flows from the site are effectively managed, particularly in light of representations about flooding on the site in the past.
20. In the interests of highway safety it is necessary to require the provision of parking spaces within the site prior to the first occupation of any dwellings and the construction of the access and footpath in accordance with surfacing materials to be agreed. A requirement to ensure that the pedestrian access to the north east corner of the site is retained through an appropriate layout is reasonable in the interests of the wider community.

#### Conclusions

21. For the reasons given above I conclude that the appeal should be allowed.

*Claire Sherratt*

Inspector

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan, 101E, 200A, 300A, 301A, 310A.
- 3) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the commencement of development hereby approved, details of facilities to be provided for the storage and removal of refuse from the site shall be submitted to and approved in writing by the local planning authority, and the development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins.
- 6) If, during the course of development, any contamination is found which has not been identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.
- 7) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing No 101 E for 9 cars to be parked.
- 8) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied. Development shall be carried out in accordance with the approved details.
- 9) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include proposed finished levels; hard surfacing materials including the surfacing of the pedestrian access to be retained for members of the public onto the footpath to the north east corner of the site; and external lighting.

- 10) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of landscaping, which shall include indications of all existing trees immediately adjacent to the site, together with a method statement outlining measures for their protection in the course of development.
- 11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 12) All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the local planning authority.
- 13) Development shall not begin until drainage works have been carried out in accordance with details to be submitted to and approved in writing by the local planning authority. None of the dwellings shall be occupied until the drainage works have been completed in accordance with the submitted plans.
- 14) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of vehicles of site operatives and visitors
  - ii) loading and unloading of plant and materials
  - iii) storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - vi) wheel washing facilities
  - vii) measures to control the emission of dust and dirt during construction
  - viii) a scheme for recycling/disposing of waste resulting from demolition and construction works

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## Appeal Decision

Site visit made on 25 November 2014

by **L Gibbons BA (Hons) MRTPI**

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

Decision date: 10 December 2014

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**Appeal Ref: APP/J1915/D/14/2227540**

**9 Lords Avenue, Bishop's Stortford, Hertfordshire CM23 4PB**

- 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 K Kirby against the decision of East Hertfordshire District Council.
  - The application Ref 3/14/1338/FP, dated 21 July 2014, was refused by notice dated 30 September 2014.
  - The development proposed is a double storey side extension and single storey rear extension.
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### Decision

1. The appeal is dismissed.

### Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of No 7 Lords Avenue in respect of outlook.

### Reasons

3. The appeal site is within an estate of modern houses which are a mix of sizes and types. The appeal property is a house with parking to the front, a small front garden and a larger garden to the rear. The proposed development would involve the loss of the garage and its replacement with a two storey side extension.
4. The appeal site is adjacent to No 7 Lords Avenue to the north. This is one of a pair of small single bedroom semi-detached properties on the corner of Lords Avenue and Cromwell Road. No 7 has a very small front garden and also a small garden to the south which serves as the main amenity area of that property. A driveway to the south of the garden forms the boundary with No 9. The east boundary of the side garden comprises a very tall brick wall. Whilst the garden is open to the pavement, as a result of its small size and boundary at the rear, it feels slightly enclosed. The garage is visible on the boundary with No 7. It is a single-storey structure with a pitched roof and due to its fairly low height and roof design it is not overly prominent.
5. There are small windows on the ground and first-floor of No 7, which face towards the garage and parking area of No 9. Two of these windows serve a bedroom and the lounge, although there are also larger windows in these rooms which face towards Lords Avenue. One of the south facing windows is in the kitchen, this serves as the only window for this room.

6. The replacement two-storey extension would be much taller than the existing garage. Due to the increase in height and bulk of the two story extension coupled with its position immediately adjoining the boundary with No 7, this would result in a significantly increased sense of enclosure. This would be detrimental to the occupiers of No 7 particularly when within the garden. Moreover, the extension would also be seen from the kitchen, bedroom and lounge. I accept the secondary nature of these windows; nevertheless the proposed scheme would appear overbearing and dominant to the occupiers of No 7 when seen from these rooms.
7. I note that the extension would result in the removal of the windows at No 9 which face towards the garden of No 7, however these serve hallways and stairs and therefore I do not accept that any gain in a reduction of overlooking would outweigh the harm caused.
8. For the reasons given above, I conclude that the proposed development would cause harm to the living conditions of the occupiers of No 7 Lords Avenue in respect of outlook. It would be in conflict with policies ENV1, ENV5 and ENV6 of the East Herts Local Plan Second Review 2007 which amongst other things seeks new development that respects the amenity of occupiers of neighbouring buildings.

*Other matters*

9. The council do not object to the scheme in respect of the effect on the character and appearance of the host property and I agree that the proposed design would be acceptable in this regard. The single story rear extension would not be highly visible from the rear of adjoining properties and in this way it would not have a negative impact. Although the garage would be replaced, one additional parking space would be provided and this would be acceptable. However, these matters are not sufficient to outweigh the harm I have found.

**Conclusion**

10. For the above reasons and having regard to all other matters raised including the concerns of neighbours in relation to boundaries, the appeal should be dismissed.

*L Gibbons*

INSPECTOR