



Appeal Decision

Site visit made on 20 August 2019 by **David**

Wallis BSc (HONS) PG DipEP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th November 2019

Appeal Ref: APP/A1910/W/19/3230140 Highlands, Kings Road, Berkhamsted HP4 3BP

- 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 and Mrs A Wilton against the decision of Dacorum Borough Council.
 - The application Ref 4/00245/19/FUL, dated 31 January 2019, was refused by notice dated 1 April 2019.
 - The development proposed is construction of new dwelling and alteration/extension to existing dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues for the appeal are the effect of the development upon:
 - the living conditions of nearby residents with particular regard to outlook
 - the living conditions of future occupiers of the development, with particular regard to outdoor space.

Reasons

Living conditions of nearby residents

3. The appeal site comprises the private garden of Highlands. The land rises steeply from Kings Road and Newbury Grove, with a more gradual incline across the appeal site towards Oxfield Close. A belt of mature trees extends from the rear garden of the appeal site behind properties in Newbury Grove, Oxfield Close and Kingsdale Road. The appeal site itself is enclosed by hedgerows of varying height. Being open and undeveloped, the rear part of the appeal site is a landscaped setting that provides a sense of openness in the area and allows views to the surrounding trees.

4. A small number of dwellings back onto the appeal site. The rear facing windows on these dwellings predominantly look over their own respective garden areas but share the focal point of the appeal site. With the rising ground, the appeal site provides views to the sky, thus contributing to the sense of openness.
5. The proposed new dwelling would be constrained by the size and nature of the space, with its flank and rear walls in close proximity to the site boundaries.

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Only a small proportion of the new dwelling would be single storey. The two storey elements are bold and stark, a feature of this contemporary design. The new dwelling, due to its location and massing, would both fill and remove the open nature of the space.

6. Whilst no-one has a right to a view, outlook should not be unduly obstructed or unacceptably harmed. With the appeal site on higher ground, the form, bulk and mass of the new dwelling would impose upon the skyline from the rear gardens of adjacent properties. With its close proximity to the appeal site boundaries, the new dwelling would be dominant within its space and impose itself upon the neighbour's gardens and outlook. The wide span and proportions of the dwelling would result in significant visual intrusion. The dwelling would be unduly assertive and over-dominant to residents of neighbouring properties, harming their outlook to an unacceptable degree.
7. My attention is drawn to the distances between the development and the neighbouring dwellings. However, the proposal would result in a substantial building intruding into an area which contributes to the outlook from the rear of neighbouring properties. Any mitigation of this intrusion offered by the separation distances from the rear elevations of existing dwellings would be reduced in effectiveness by the height of the dwelling on higher ground and the proximity to the site boundaries.
8. The appellant points out that modifications to the design of the new dwelling have followed an earlier refused application. Nonetheless, the overall bulk and mass of the dwelling remain and are central to this appeal. Whilst the hedgerows on all site boundaries would screen the development to a degree, it would not significantly reduce the visual impact the dwelling would have upon nearby properties.
9. I conclude that the proposal would cause unacceptable harm to the living conditions of existing occupiers with regard to outlook. This would be contrary to policies CS11 and CS12 of the adopted Dacorum Borough Council Core Strategy 2006 – 2031 (the Core Strategy). These policies, amongst other things, seek developments to respect adjoining properties.

Living conditions of future occupiers

10. I observed from my site visit that although the land rises steeply towards the appeal site, there are only gentle undulations on the site itself. There is certainly a stepped garden at present but not to a significant degree that renders any part of the existing garden area unusable or inaccessible to any potential user. From ground level, only glimpse views are available of other dwellings in the locality. The rear garden and grounds of Highlands are not therefore overlooked by any neighbouring occupier.

11. The new dwelling would be provided with separate parcels of garden space to the rear, but both are sizeable areas. A variety of hard and soft landscape surfaces are shown on the plans providing for different types of outdoor recreation. Whether taken individually or cumulatively, they would provide adequate outdoor space to support the future occupiers.
12. Whilst the existing property of Highlands would lose a substantial amount of its garden to the new dwelling, it would retain a proportion behind its associated garage. The space is of a reasonable size to support private recreation, again

with a mix of surfacing. The lack of a front garden would not diminish the ability of future occupiers to enjoy a quality outdoor space that is private and un-overlooked.

13. The layout of the site provides parking, turning and manoeuvring space for both dwellings. There are no readily apparent deficiencies in the level of provision for either dwelling. The layout of the site is broadly comparable to other dwellings in the locality.
14. I conclude that the proposal would not cause harm to the living conditions of future occupiers with regard to outdoor space provision. The proposal does not therefore conflict with policies CS11 or CS12 of the Core Strategy, that seek to enhance spaces between buildings and provide sufficient servicing space.

Other Matters

15. I note from the Local Planning Authority (LPA) appeal statement that there is no objection to the proposed remodelling and extension works to the dwelling of Highlands, taken in isolation. I note modifications have been made to the design following an earlier refused application and dismissed appeal.
16. Although the extensions would raise the height of Highlands, this element of the appeal development would take place on the existing built-up part of the site. Highlands is a modest distance away from the nearest neighbouring properties of Ibthorpe, Treetops and The Orchard. The remodelled Highlands would also be at a very oblique angle to No 10 Oxfield Close. It would not therefore intrude unacceptably into the outlook of neighbouring occupiers. I conclude that this element of the proposal would not be harmful to the living conditions of these existing occupiers. However, the whole application is before me at this appeal and I have found harm in other respects.
17. The appellant notes the proposal would not cause a loss of light nor a loss of privacy to neighbouring occupiers, and has made reference to the BRE assessment method. However, a lack of harm in these respects is not a benefit and so I attach little weight to these matters.
18. My attention is drawn to a number of planning permissions in the local area whereby back land or 'tandem' development has taken place. However, there is no objection raised from the LPA with regards to this type of development in this instance. Whilst these other decisions show an increasing density, they do not share the landscape characteristics of the appeal site. In any case, each application and appeal should be determined on its own merits.

Conclusions

19. Notwithstanding my conclusions with to the living conditions of future residents, I conclude that the proposal would harm the living conditions of nearby residents with regards to outlook. The proposal will therefore conflict with the development plan as a whole with regards to the quality of neighbourhood and site design and the effect on nearby properties.

20. The appeal is dismissed.

David Wallis

INSPECTOR