



Appeal Decision

Site visit made on 20th December 2011

by T Cookson MRTPI DipTP FRGS

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

Decision date: 9 January 2012

Appeal Reference: APP/C1950/A/11/2155240

Land adjacent to 37-48 Lambs Close, Cuffley, Potters Bar, EN6 4HD

- 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 Appollo Consultants against the decision of Welwyn Hatfield Borough Council.
 - The application (reference: S6/2011/413/FP), dated 22nd February 2011, was refused by notice dated 17th June 2011.
 - The development proposed is 'erection of one pair semi-detached dwellings with associated parking following the change of use of the land from parking, including the demolition of existing garages (with the exception of the rear walls) and the removal of existing hard-standing'.
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Decision

1. In exercise of the powers transferred to me, I dismiss the appeal.

Main Issue

2. From my inspection of the site and its surroundings, and from my consideration of all the evidence and representations, including those of local residents, I find that there are three main issues in this appeal. The first is the effect of the trees on the living conditions of the prospective occupiers of the proposed dwellings. The second is whether or not the proximity of the dwellings to the preserved trees would constitute a threat to the well-being of the trees and on the character and appearance of the area. The third issue is the effect of the design of the proposed houses on the character and appearance of the area.

Reasoning

3. The appeal site is currently derelict, comprising overgrown hard-standing and the remains of eleven lock-up garages. It is a backland location to the south of a block of flats at the end of Lambs Close, a cul-de-sac. It is likely that the garages were originally built in connection with the flats. The local planning authority considers that the principle of residential development on this previously-developed land is acceptable and would accord with Policy R1 of the Welwyn Hatfield District Plan. I agree. I note also that the highway authority has no objection to the use of the narrow and unmade vehicular access to the site.

First Issue

4. The proposed semi-detached houses would be located centrally on the site. In the eastern part would be a large open area providing vehicle parking and

manoeuvring space, and a bin store. The western end of the site would be set out as gardens for each of the dwellings. Immediately to the north-west, in a neighbouring property but abutting the site boundary, are two large, mature, oak trees that are subject to a Tree Preservation Order. The crowns of the trees extend some distance over the appeal site, as well as over other properties nearby, including the communal garden of the neighbouring flats.

5. Concerns have been raised with regard to previous proposals on the site over the impact of these protected trees on the proposed buildings and the rear gardens, particularly when the trees are in leaf. I note that this scheme has moved the dwellings further away from the trees in order to improve the amount of light to the rear of the properties. Nevertheless, the tree canopies would still overhang the rear garden of the northernmost plot, Plot 1, to a considerable degree, leaving about 6m. between the overhang and the house.
6. The effect would be that from early afternoon when the trees are in leaf the garden and the rear rooms of the house would be progressively in shade, with about half of the garden of this plot permanently in shade. I note that the arboricultural shade analysis* submitted by the appellant shows that at two points at the rear of the building on Plot 1, the percentage of possible shade would peak at some 25.04% and 27.59% in June. However, figures are not provided for points within the garden, where the effect of shading would be greater. Whilst the shading would be less at other times of year, it is evident that the level of shading in summer would be greatest when the prospective residents would wish to utilise their garden most. Thus their experience of the shading by the trees and their perception of the effect of the trees on their enjoyment of the property would be great. Whilst shade can be welcome at times, to experience it continually in parts of the property and for a notable percentage of time in other areas would, I find, be overbearing and would have an unacceptable, deleterious effect on the living environment.

Second Issue

7. Owing to the effect the presence of the trees would have on the living conditions of residents were the houses built, I find that there would be a real and significant risk of demands from the occupiers to reduce the size of the trees or even remove them in order to improve the living conditions, prevent drains and gutters being blocked by falling leaves, to avoid danger from falling branches, and to enable a garden to be properly established. However, I find that these trees contribute so greatly to the character and appearance of the locality that their well-being and form should not be risked by siting the residential development as proposed in this scheme. The proposal thus runs counter to Policy R17 of the Welwyn Hatfield District Plan.

Third Issue

8. It is Government policy, as contained, inter alia, in Planning Policy Statement 1: *Delivering Sustainable Development* (PPS1), Planning Policy Statement 3: *Housing* (PPS3), and in *By Design – urban design in the planning system: towards better practice*, to promote good design to ensure attractive, usable, durable and adaptable places. Good design is regarded as a key element in ensuring sustainable development, contributing to making places better for people. Design which is inappropriate in its context, or which fails to take the

* Hayden's Arboricultural Consultants – Shade Analysis

opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. This approach is also found in Policies D1 and D2 of the District Plan and the Council's Supplementary Planning Guidance.

9. It is stated in the Design and Access Statement that the two semi-detached houses proposed here have been sensitively-designed to respect the adjoining buildings, continuing the natural pattern of development with the height of the development presenting a natural step down from the neighbouring blocks of flats and the bungalows to the south of the site.
10. It is apparent that the design of the proposed dwellings seeks to imitate the design of the recently-constructed development near the entrance to Lambs Close. Whilst such a design may be appropriate for a large single building containing many residential units and a varied roof-scape and footprint, adopting the same design approach for this smaller scheme appears plain, inelegant and lacking proportion. Its detailing and overall form is unprepossessing and uninspired, and crude in parts. For example, some of the detailing shown on Plan D11 does not correspond with the detailing shown on the elevational drawings.
11. Notwithstanding that it is a backland site, I find that the proposal is inappropriate in its context. It lacks the presence and individuality of design to provide the desired visual link between the flats and the bungalows. It thus fails to take the opportunities available for improving the character and quality of the area. As such the scheme does not accord with Policies D1 and D2 of the District Plan and the Council's Supplementary Design Guidance.

Other Matters

12. The proposed houses would be visible from the bungalows to the south in Theobalds Close. However, the juxtaposition of the properties and the distances between them means that the effect of the new dwellings would be negligible on the amenities of the residents of the bungalows. Any overlooking could be precluded by the installation of obscure glass in the WC, en suite shower room and bathroom in the flank wall of the southernmost house.
13. Representations have also been received concerning the use and retention of the appeal site for car parking in connection with the neighbouring flats. I acknowledge that the parking situation and the use of this land for parking greatly concerns local residents. However, this is a matter outwith the remit of this appeal, which is concerned solely with the refusal of planning permission for two dwellings on the site.

Conclusion

14. In reaching my conclusions and my decision I have had regard to all other matters raised in the representations, but none is sufficient to outweigh the considerations I deem to be paramount.

TCookson

Inspector