

A1449



Appeal Decision

Site visit made on 29 October 2008

by **J Chance** BSc DipTP MRTPI

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

The Planning Inspectorate
4/11 Eagle Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN

☎ 0117 372 6372
email:enquiries@pins.gsi.gov.uk

Decision date:
17 November 2008

Appeal Ref: APP/C1950/A/08/2075729

2 Plough Hill, Cuffley, Potters Bar, Hertfordshire EN6 4DR

- 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 Trinity Developments against the decision of Welwyn Hatfield Borough Council.
- The application Ref S6/2007/1466/FP, dated 28 September 2007, was refused by notice dated 27 November 2007.
- The development proposed is described as "Construction of 4 new detached dwelling houses on brown field backland to rear of nos. 54 – 58 Plough Hill and no. 02 Hill Rise, Cuffley, Hertfordshire".

Decision

1. I dismiss the appeal.

Procedural Matters

2. In the information above I have used the site address given on the application form. The address is more correctly identified as "Land at 2 Hill Rise, 54, 56 and 58 Plough Hill, Cuffley, Potters Bar", as indicated on the Council's decision notice and I have dealt with the appeal on this basis.

Main Issues

3. The main issues are:
 - (a) the effect of the proposed development on the character and appearance of the surrounding area;
 - (b) the effect of the proposed development on the living conditions of the occupiers of neighbouring residential properties, especially No 6 Orchard Close and No 21 Kingsmead, paying particular attention to loss of privacy and visual impact;
 - (c) the effect of the proposed development on the living conditions of the occupiers of No 4 Hill Rise, with reference to the proposed access route; and
 - (d) the ability of the proposed development to cater for access by all, including the disabled, young children in prams and pushchairs and people who are temporarily disabled.

Reasons

Effect on the Character and Appearance of the Surrounding Area

4. The site comprises the lower parts of the rear gardens of 4 existing dwellings, No 2 Hill Rise and Nos 54 to 58 Plough Hill, together with the remainder of the garden and property at No 2, through which the proposed access driveway would pass. The land is steeply sloping and is surrounded by residential properties, which are generally characterised by quite long rear gardens.
5. I saw that there is a mixture of forms, types, styles and sizes of dwelling in the area and that there is a variety of layouts around various road configurations. I observed that there are 2 recent backland properties not far from the appeal site. However, the overall impression of the locality is that of a wide variety of dwelling types at different levels within the sloping topography, largely fronting either onto the main road network or arranged around cul-de-sacs of different lengths, with substantial rear gardens which provide a green spacious setting where different gardens border the rears and sides of adjacent garden areas.
6. Three of the 4 proposed dwellings would be set not far from the bottom of the site, with the 4th on slightly higher land towards one side. Whether seen from higher land, from parts of the rear garden areas of No 2 Hill Rise and Nos 58 and 56 Plough Hill in particular, or from lower land, from No 6 Orchard Close and 21 Kingsmead in particular, the proposed development would appear as an intensive mass of built form. Not only would the individual properties have substantial size, bulk and mass, which would be exacerbated by having to build them out of the sloping land, but there would be little space between and around the proposed dwellings. Furthermore, a considerable part of the site area would be taken up with the shared access road, individual driveways and parking areas. Consequently, the proposed development would, in my opinion, appear as over-intensive built form that was unacceptably cramped and squeezed in, with a resulting disproportionately small amount of green space.
7. This would be at odds with the current green spacious character of this backland area and would result in over-intensive development that, because of the size, bulk and mass of the proposed buildings and their higher floor levels than many nearby dwellings, would be unduly prominent from surrounding properties despite any supplementary landscaping proposals. I therefore conclude that the proposed development would significantly detract from the character and appearance of the surrounding area. Since it would neither respect nor relate to the character and context of the area and would not maintain the character of the locality, the proposed development would be contrary to Policy D2 of the adopted Welwyn Hatfield District Plan 2005 (DP). Furthermore, since the overall design would be inappropriate in its context, the proposal would conflict with the intentions of DP Policy D1 regarding the need for all new development to be of a high standard of design.

Effect on the Living Conditions of the Occupiers of Neighbouring Residential Properties

8. The rears of the proposed dwellings on Plots 1 to 3 would have an aspect towards No 6 Orchard Close and Nos 21 and 19 Kingsmead. The houses on Plots 1 and 2 would have habitable room windows at both levels on the rear elevations. Furthermore, because of the elevated ground level and raised finished floor levels of those proposed dwellings compared to the significantly

lower properties at No 6 Orchard Close and No 21 Kingsmead, I consider that the occupiers of those existing properties would have a constant feeling of being looked down upon from a much higher level when in their rear rooms and rear garden areas. Moreover, from their dwellings and gardens they would have a constant view of high, bulky buildings towering above them and dominating their outlook.

9. I saw that there are many habitable room windows on the rear elevation of No 6 Orchard Close. Given the significantly elevated positioning of the dwelling on Plot 1 compared with that existing property, despite the intervening distance, I find that there would be both direct and perceived overlooking of the rear garden and rear rooms of No 6 Orchard Close which would be so serious as to harm those neighbours' enjoyment of their property. Furthermore, I am of the opinion that the resulting visual impact of that proposed house would have an oppressive effect on those existing occupiers when in their dwelling and garden.
10. In addition, I saw that the rear garden of No 21 Kingsmead is particularly open and clearly from the planting and other attractive garden features the occupiers of that property spend considerable time in their garden and sit out at the bottom of their garden. Moreover, the elevated rear conservatory with its dining area is clearly well utilised as the main living area with its view out over the garden. There would be clear views into that garden at 21 Kingsmead from the elevated positions of the dwellings on Plots 2 and 1, and also from the gardens for those plots. Again, notwithstanding the indicated separation distances between the proposed houses and that existing dwelling, I nevertheless consider that there would be a serious loss of privacy for those existing residents at No 21 Kingsmead, which would have a significant adverse impact on their enjoyment of their dwelling and garden. Furthermore, the dominating effect of the proposed buildings would add to the harm caused to the living conditions of those existing residents.
11. As regards the effects on other neighbouring properties, these would generally be less serious because the angles of view would be more acute or the existing dwellings and their gardens would be at higher levels than the site and present intervening screening would help to reduce adverse impacts relating to privacy and visual effect. However, there would still be slight harm caused to the living conditions of the occupiers of Nos 19 and 7 Kingsmead.
12. I have considered whether further tree planting would satisfactorily off-set the harm that I have identified to the living conditions of neighbouring residents. However, any such proposed landscaping scheme would take considerable time to establish and, in any event, would not, in my view, be sufficient to overcome the perceived and direct overlooking of their properties or the adverse visual impact that existing occupiers of No 6 Orchard Close and No 21 Kingsmead would experience as a consequence of the proposal.
13. I have also taken account of concerns raised regarding overshadowing and I find that the proposed development would be likely to restrict sunlight to parts of the gardens of No 6 Orchard Close and Nos 21 and 19 Kingsmead during certain times of the day, particularly at the times of the year when the sun was lower in the sky. This would add further to the harm I have previously identified.

14. I therefore conclude that the proposed scheme would be the cause of significant harm to the living conditions of neighbouring occupiers. This would further indicate that the design would be inappropriate in its context, in conflict with DP Policy D1.

Effect on the Living Conditions of the Occupiers of No 4 Hill Rise

15. The proposed access is via a shared gravel driveway alongside the common boundary of No 2 Hill Rise with No 4 Hill Rise, following minor demolition works at No 2. Although No 4 has a garage at ground floor level adjacent to the shared boundary there are windows on the side elevation of that property at first floor level. Furthermore, I saw that there is an existing driveway to the other side of No 4 which serves the new properties, identified as 6A and 6B.
16. Although there is quite a lot of vegetation on the boundary between Nos 2 and 4, including an evergreen hedge on the higher level near the house at No 4, I nevertheless find that the number of vehicular journeys that would be generated by future occupiers of the proposed 4 substantial sized houses, together with their visitors and associated delivery and service vehicles would be significant. I consider that the occupiers of No 4 would be aware when in their house and particularly their garden of vehicles moving up and down the proposed drive. Furthermore, as gravel surfacing is proposed, I find that this would be likely to create additional noise which would add to the noise of moving vehicles travelling up and down the steep slope. The combined effect would be noise and disturbance for the occupiers of No 4 who already have the effect of vehicle and pedestrian movements to 2 properties on their other side.
17. I conclude that the noise and disturbance associated with the use of the proposed access arrangements would unacceptably harm the living conditions of the occupiers of the existing property at No 4 Hill Rise, in conflict with DP Policy D1 which seeks to achieve good design which is appropriate in its context.

Ability to Cater for Access by All

18. The appellant indicates that access to the land and the proposed dwellings would have to comply with statutory requirements relating to access for the disabled. There is a lack of information relating to the detailed levels and gradients along the main shared access driveway. However, I have no reason to doubt that full disabled access would not be provided and certainly it would seem feasible for level access to be achieved at the fronts of the proposed dwellings and to some form of outside area, even if not to the entire rear gardens.
19. While I agree with the Council that there is an absence of detail regarding the provision of inclusive access for all, I consider that it would be possible, given the extent of the entire site, for this to be achieved in line with the intentions of DP Policy D9.

Conclusions on the Main Issues

20. Notwithstanding my considerations with regard to the ability of the site to cater for access by less mobile sections of the community, I nevertheless find the determining issues in this appeal to be the harm to the character and

appearance of the area and the living conditions of the occupiers of No 6 Orchard Close, No 21 Kingsmead and No 4 Hill Rise which would result if I were to allow this appeal.

Other Matters

21. I have had regard to the appellant's comments that the site is within the settlement of Cuffley where there is a presumption in favour of granting planning permission for residential development on previously-developed land which would be in line with national policy objectives for the efficient and effective use of land for housing development. However, while Planning Policy Statement 3 (PPS3): Housing seeks to prioritise the development of previously-developed land in urban and built-up areas over greenfield sites, it states that there is no presumption that land that is previously-developed is necessarily suitable for housing development nor that the whole of the curtilage should be developed. Furthermore, PPS3 also indicates that design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted. Since I have found that the proposal would harm the character and appearance of the area and the living conditions of existing occupiers, I find that it would be contrary to the intentions of that national guidance as well as to Policies D1 and D2 in the DP.
22. I have taken account of concerns raised by local residents relating to the past felling of trees, effect on wildlife, effect on highway safety, disruption during construction, the capacity of the sewerage system and land drainage network, noise pollution and loss of property values. However, these do not affect my conclusions on the main issues.

Overall Conclusion

23. For the reasons given and having regard to all other matters raised, I conclude the appeal should be dismissed.

J Chance

INSPECTOR