
Appeal Decision

Site visit made on 28 June 2016

by Emma Tinsley-Evans BSoc.Sc MA MRTPI

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

Decision date: 16 August 2016

Appeal Ref: APP/X1925/W/16/3146866

39 Broadwater Avenue, Letchworth Garden City, Hertfordshire SG6 3HG

- 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 Nigel Jury against the decision of North Hertfordshire District Council.
 - The application Ref 15/01457/1, dated 27 May 2015, was refused by notice dated 25 September 2015.
 - The development proposed is a new 3 bedroom dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for a new 3 bedroom dwelling at 39 Broadwater Avenue, Letchworth Garden City, Hertfordshire SG6 3HG in accordance with the terms of the application, Ref 15/01457/1, dated 27 May 2015, subject to the conditions set out in the schedule attached to this decision.

Main Issue

2. The main issue is the effect of the proposed development on the character and appearance of the area.

Reasons

3. Broadwater Avenue is a leafy residential thoroughfare mainly characterised by large detached and semi-detached properties set in sizeable plots, facing but set back from the highway by grass verges and front gardens. Built as part of Letchworth Garden City in the early twentieth century, there is some variety in housing styles, and the generous spacing between and around the plots contribute to the street's open and spacious feel. Broadwater Avenue forms part of the western edge of the Letchworth Conservation Area (LCA) a designated heritage asset as defined in the glossary at Annex 2 of the National Planning Policy Framework (the Framework).
 4. The appeal site comprises part of the rear garden of 39 Broadwater Avenue, a large detached property set in a spacious corner plot at the junction with Broadwater Dale. The boundary of the LCA runs through the existing garden and whilst the appeal site is not within the Conservation Area, it lies immediately adjacent to it. Paragraph 132 of the Framework makes clear that great weight should be given to the conservation of designated heritage assets, the significance of which can be harmed through, amongst other things, development within its setting.
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5. The proposed dwelling would be accessed off Broadwater Dale, a more modern housing development built around the 1960s. This street is characterised by 2 storey terraced dwellings with a regular pattern of development and a homogenous appearance. Whilst the properties occupy modest plots compared to their neighbours on Broadwater Avenue, they are set back from the road giving Broadwater Dale an open character and appearance which is complemented by small informal areas of open green space and mature trees.
6. Opposite the appeal site, off Broadwater Dale, is the smaller and more recent residential development at Copper Beech Drive. Consisting of mainly terraced properties, the dwellings display a contemporary appearance compared to those in the immediate vicinity. Both Copper Beech Drive and Broadwater Dale also fall outside the LCA.
7. In considering the appeal proposal I have regard to the Letchworth Conservation Area Character Statement (LCACS) which establishes that Letchworth Garden City was the first in the world and set new environmental and architectural standards for the twentieth century. Further, the LCACS identifies that Letchworth was the creation of a town dominated by open space, varied species of trees, and houses sited to obtain the maximum benefits of daylight.
8. Whilst the design of the proposed dwelling is unashamedly modern, this highly efficient 'eco-house' would, in my view, add visual interest to the surrounding residential environment which itself is of a varied appearance. It would demonstrate the continuing evolution of house styles, types and ages that is characteristic of the area and would set very high environmental standards that are consistent with the underlying principles on which Letchworth Garden City was founded.
9. In accordance with paragraph 58 of the Framework, I consider that the appeal proposal would function well and add the overall quality of the area, not just for the short term but over the lifetime of the development. It is my view that the proposed development would make a positive contribution to local character and distinctiveness in accordance with paragraph 126 of the Framework.
10. The appeal site is has a verdant appearance with established trees and landscaping which currently allow limited views of the LCA from Broadwater Dale. I acknowledge that the existing trees on the site make a positive visual contribution to the setting of the Conservation Area. However, I am mindful of the appellant's Arboricultural Impact Assessment which concludes that many trees are of poor form, low amenity value, non-native species and of little relevance to the preservation of the character of the adjacent Conservation Area.
11. Whilst it is also regrettable that some established trees would be removed to accommodate the appeal proposal, I note that a number of mature trees would be retained and that a robust planting scheme is proposed which would make a positive contribution to the setting of the Conservation Area.
12. I also note the Council's concern about the future retention of the large sycamore tree in the north western corner of the site; however, the appellant states that the proposal has been designed to maximise tree retention and allow space for new planting. Further, the use of modern building techniques,

including the large amounts of glazing would maximise light to create a bright and airy feel to the property, despite the presence of trees on site. As such, I have no reason to believe that the sycamore would not be retained.

13. I acknowledge that the appeal proposal would open up views into the site; however, this would also better reveal the significance of the LCA. In accordance with paragraph 137 of the Framework, such proposals should be considered favourably. The proposal would not compromise the defining characteristics of LCA as set out in the LCACS and would cause no harm to the setting or the significance of the LCA.
14. Consequently, I consider that the proposed development would not have a harmful effect on the character and appearance of the area. I find no conflict with section 12 of the Framework which seeks to conserve and enhance the historic environment. The appeal proposal also demonstrates good design in accordance with the requirements of section 7 of the Framework.
15. The Council has also relied on Policy 21 of the North Hertfordshire District Local Plan No 2 with Alterations¹ in their reason for refusal. This policy concerns the landscape and open space pattern in towns and such areas are identified on the proposals map. The Council considers that the appeal proposal would be contrary to this policy as it would result in the loss of an area of landscaped private open space in an area that is designated as part of the landscape and open space pattern of the town. However, it is clear from the proposals map before me that the appeal site does not fall within the landscape and open space pattern of the town. This policy has therefore had no bearing on my conclusions on the issue of character and appearance.

Other Matters

16. I am aware of a number of local concerns regarding highway safety and parking issues. However, the appeal proposal would provide parking spaces for 2 cars in accordance with the highway authority's standards. In addition, whilst an on-site turning area is not required, I note that manoeuvring space would be provided within the site to allow vehicles to egress in a forward gear. The highway authority has raised no objection to the proposal and I have no evidence before me to take an alternative view.
17. I also note the concern of the occupants of the neighbouring property at 37 Broadwater Avenue who consider that the appeal proposal would result in overlooking to their property and rear garden. However, given that the ground level would be lower at the appeal site and considering the distance between the proposed dwelling and No 37, I do not consider that the privacy of the occupants would be unduly harmed. Whilst I acknowledge that there could be some overlooking of the rear garden of No 37, this would be towards the end of the garden. Given the size of the garden at No 37, this would not unduly impact on the most private part of the garden nearest the house.

Conditions

18. I have had regard to the conditions suggested by the Council. Having considered them against the tests in the Framework, and advice in the National Planning Practice Guidance (NPPG), I have made amendments as necessary. I

¹ Originally adopted April 1996. Saved policies under Planning and Compulsory Purchase Act 2004 Written Statement September 2007

- have also sought comments on landscaping conditions from the parties as none were suggested to me.
19. In addition to the standard time limit condition, a condition requiring development to be carried out in accordance with the approved plans is necessary to provide certainty.
 20. Conditions relating to the use of external materials and the submission of hard and soft landscaping details, including the retention, removal and replacement of trees are also necessary to ensure the satisfactory appearance of the development.
 21. The Council has suggested the removal of permitted development rights. However, in accordance with the Framework and the NPPG there should be clear justification for doing so. I do not consider that the removal of permitted development rights is necessary in this case.
 22. In the interests of highway safety it is reasonable to impose a condition preventing the new driveway and parking area from being brought into use until the access has been constructed in accordance with the approved details. Given the change in levels between Broadwater Dale and the appeal site, it is reasonable to specify an appropriate gradient for the access. Similarly, a condition relating to pedestrian visibility splays is necessary to ensure that sight lines are secured and maintained for continued highway safety.
 23. A separate condition regarding the surfacing material of the proposed access is suggested by the Council to ensure that loose material does not pass on to the public highway to the detriment of highway safety. Whilst I consider that it is reasonable to impose such a condition, it can be included within the hard landscaping condition.

Conclusions

24. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Emma Tinsley-Evans

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: A100; A101 Rev A; A103; A104; A105 A106; A107.
- 3) Notwithstanding any details shown on the approved plans, no development shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling 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) Notwithstanding any details shown on the approved plans, no development shall commence until details of hard landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include:
 - i) means of enclosure and retaining structures;
 - ii) boundary treatments;
 - iii) vehicle parking layouts;
 - iv) other vehicle and pedestrian access and circulation areas;
 - v) hard surfacing materials, ensuring that at least the first 6m of the access from the edge of the adjacent carriageway is constructed in a hard surfacing material;
 - vi) minor artefacts and structures e.g. refuse or other storage units;
 - vii) a programme of implementation of these works

The landscaping works shall be carried out in accordance with the approved details.

- 5) No development shall commence until there shall have been submitted to and approved in writing by the Local Planning Authority a scheme of soft landscaping. The scheme shall include:
 - indications of all existing trees and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.
 - a full specification of all proposed tree planting. The specification shall include the quantity, size, species, and positions or density of all trees to be planted, how they will be planted and protected and the proposed time of planting.

The scheme for the protection of the retained trees and hedgerows shall be carried out as approved and the tree planting shall be carried out in accordance with the approved specification.

- 6) If, within a period of 5 years from the date of planting, the tree (or any tree planted in replacement for it) is removed, uprooted, destroyed or dies or becomes, in the opinion of the Local Planning Authority, seriously damaged or defective, another tree of the same size and species as that originally planted shall be planted at the same place within the first

planting season following the removal, uprooting, destruction or death of the original tree unless the local planning authority gives its written consent to any variation.

- 7) In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars:
 - i) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the occupation of the dwelling, other than in accordance with the approved plans and details, without the prior written approval of the Local Planning Authority.
 - ii) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted, in accordance with condition 5, at such time as may be specified in writing by the Local Planning Authority.
- 8) 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 dwelling or the completion of the development, whichever is the sooner.
- 9) The new driveway and parking area shall not be brought into use until the proposed access has been constructed in accordance with the approved plans and the gradient of the access shall not be steeper than 1 in 20 for at least the first 6m from the edge of the carriageway. The access shall be retained thereafter.
- 10) Before the access is first brought into use 0.65m x 0.65m pedestrian visibility splays shall be provided and permanently maintained to each side of the access. The visibility splays shall thereafter be kept free of all obstructions over a height of 0.6m above the footway level.