



## Appeal Decision

Site visit made on 23 September 2024

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 18 October 2024

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**Appeal Ref: APP/X1925/W/24/3338656**

**16 Priory Way, Hitchin, Hertfordshire SG4 9BL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr & Mrs Kumar against the decision of North Hertfordshire District Council.
  - The application reference is 23/00924/S73.
  - The application sought planning permission for a detached 6-bed dwelling following demolition of existing dwelling (as amended by plans received 23/03/22 and 25/03/22) without complying with a condition attached to planning permission reference 21/03472/FP, dated 29 April 2022.
  - The condition in dispute is number 2 which states that: The development hereby permitted shall be carried out wholly in accordance with the details specified in the application and supporting approved documents and plans listed above.
  - The reason given for the condition is: To ensure the development is carried out in accordance with details which form the basis of this grant of permission.
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### Decision

1. The appeal is dismissed.

### Main Issue

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

### Reasons

3. Permission was granted in 2022 for a replacement dwelling. The works associated with the building of that dwelling have commenced. The approved plans included PL07 B. This illustrated a hedge to the roadside boundaries of the property. The appellants are seeking to replace the hedge with a low wall with high piers and railings between the piers. A gate is also sought. The hedge that existed at the time of the application and was shown on the plans, including those subsequently submitted and approved to satisfy the landscaping condition, has now been fully removed.
4. The approved layout plan PL03 C showed the hedge and a number of trees on or close to the northern boundary. The revision, PL03 E, includes the proposed gate and a solid brown line which reflects the position of the proposed new boundary. Both versions of this plan show a slope running from the new house up to the boundary hedge and a number of trees. It was apparent from my visit that the site has been excavated and a retaining wall built close to the boundary, with the land behind it levelled. This appears to be at odds with the

approved plans. All the trees along the northern boundary have been removed although the single tree on the western boundary remains.

5. The permitted house is substantially larger than the house it replaced and extends significantly closer to the northern boundary in particular. Due to its design and position, it represents a strident new development within the street scene. The hedge and trees to the north would have ensured that the new works would have had a more limited prominence, despite their scale and limited set back. Without these features, the building is now extremely prominent in views from the road and footpath.
6. I am mindful that the approved landscaping scheme advised that the boundary trees are to be retained if possible and if not, replaced with matching species. This was in addition to the hedge being retained. The approved plan also includes the addition of other trees within the garden and if still able to be planted, these have the potential to soften the built form over time. Although the landscaping scheme has been approved, it is self-evident that with the change in ground form and levels, the loss of trees and the removal of the hedge, it needs to be updated. No new landscaping details have been provided but could be required again by a revision to condition 9. I have, as far as I am able, considered the potential for re-instating the ground levels in accordance with the approved plans and the introduction of new planting within the space available. This proposal cannot however consider the changes made to the original plans, other than those specifically proposed.
7. Generally, the area is characterised by the presence of hedges, garden trees and bushes. Properties are set back, ensuring that the buildings are perceived as being set within and behind the garden landscaping. This proposal would result in a new, high boundary feature. Although it is proposed that there would be railings above the lower wall, which would reduce its perceived solidity, it would nevertheless be a substantial new structure. Rather than reducing the prominence of development, or softening its appearance, it would substantially increase it. Even with a number of trees planted behind, it would appear as an entirely urban feature in this very sub-urban area.
8. There are two properties that have higher, more solid boundary structures in the vicinity. Both have low walls with wooden fencing panels between higher brick piers. The neighbouring property, number 14, retains planting behind the fence and the house is set well back beyond a mature garden. At number 9, the dwelling is also set well back from the road. More limited garden planting has been retained and as a result, it does depart, to an extent, from the wider character of the area. I have not been provided with the details of the applications that led to these boundaries being accepted so I am unaware of the circumstances that led to their approval. They are not positive elements within this area but in any event, they differ significantly from the circumstances of the appeal property. I must in any event, consider the current proposal on its own particular merits, including the more dominant and prominent position of the dwelling.
9. The proposed boundary would increase the prominence of development and be at odds with the positive examples of boundary treatments in the vicinity. It would represent a form of development that would be out of keeping in this location. It would fail to soften the impact of the approved dwelling. In this respect, it would be much less satisfactory than the approved details and the

approved landscaping scheme. It would result in considerable harm to the character and appearance of this area and would represent particularly poor design in this context. It would be contrary to policy D1(a&bi) of the North Hertfordshire Local Plan 2011-2031 (2022) as it would not respond positively to the local context and would fail to enhance the public realm.

10. The National Planning Policy Framework 2023 is clear that development that is not well designed should be refused. It is also clear, at paragraph 140, that the quality of approved development should not be materially diminished between permission and completion, as a result of changes being made to the permitted scheme. This proposal would materially diminish the approved scheme.
11. Whilst it is appreciated that a boundary is required that would provide privacy without unduly resulting in shade, this could be achieved by the approved plans, although re-planting would be necessary. This proposal does not offer a suitable alternative. In conclusion, as there are no matters that outweigh my concerns, I dismiss the appeal.

*Peter Eggleton*

INSPECTOR