



Appeal Decision

Site visit made on 1 September 2008

by **Richard McCoy** BSc, MSc, DipTP,
MRTPI, IHBC

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

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Decision date:
9 October 2008

Appeal Ref: APP/P1940/A/08/2072522

81/81A Hornhill Road, Maple Cross, Hertfordshire, WD3 9TG

- 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 Valentine Homes (Hornhill LLP) against the decision of Three Rivers District Council.
- The application Ref 08/0134/FUL, dated 21 January 2008, was refused by notice dated 25 March 2008.
- The development proposed is the demolition of the existing buildings and the erection of 6 dwellings with garages, parking and access road.

Decision

1. I allow the appeal subject to the conditions set out in the Formal Decision below.

Procedural matters

2. The 2 plots in the eastern end of the appeal site are referred to as Plots 6 and 7 on drawing No. 2583/1 Rev D. However, on drawing No. 2583/4 Rev C they are referred to as Plots 5 and 6 and I shall deal with the appeal on that basis.
3. A signed Unilateral Undertaking, dated 16 September 2008, was submitted by the appellant in respect of contributions towards the cost of primary and secondary education, libraries, youth and childcare services, and fire hydrant provision in the District.

Main issues

4. I consider the main issues to be the effect of the proposal on the character and appearance of the area and the living conditions of future occupants and the occupants of nearby dwellings from any overlooking.

Reasons

5. The appeal site is an irregularly shaped backland plot extending to approximately 0.216 hectares and is located in a predominantly residential area. It contains a pair of semi detached dwellings fronting onto Hornhill Road with a bungalow and outbuildings to the rear.
 6. This proposal is a revision of a previous scheme for 7 dwellings that was dismissed at appeal ref. APP/P1940/A/07/2049925. I note the proposed detail of Plots 5 and 6 (referred to as Plots 6 and 7 under the previous appeal
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- proposal) is unchanged from that scheme and I agree with the previous Inspector that the proposed development for this part of the site would not be inappropriate. In addition, I note the Council raises no issue with regard to the appropriateness of the proposed design for Plot 1.
7. I have also taken account of the Officer's view, as stated in the Committee Report, that the revised proposal takes account of the previous Inspector's concerns and is acceptable in design terms. In my opinion, the revised Plot 1 design would sit well within the street-scene and the proposed reduction in the number of units would produce a development that would meet the Council's amenity space standards and not appear cramped. Accordingly, the proposal would neither be harmful to the character and appearance of the area or conflict with Policy Gen 3 of the Three Rivers Local Plan 1996-2011 (LP), adopted 2002.
 8. With regard to the impact of the proposal on living conditions, this was also considered at length in the Officer's report. I agree with the Officer that sufficient distance would be provided between Plot 1 and the rest of the proposal and between Plots 3 and 4 and No. 83 to prevent any overlooking problems. Similarly, the proposed distance of around 25 metres between Plot 2 and No 83 would, to my mind, reduce any overlooking conflicts.
 9. Furthermore, given the offset angle between Plots 2, 3 and 4 and No. 83, the proposed distance between the first floor windows of Plot 2 and No. 83 of around 27 metres and the first floor rear window on Plot 2 being angled away from No 83 to prevent any direct views, I consider that overlooking problems would be unlikely to arise. I note the Council's concern regarding the appearance of the angled window but its size and location are such that it would not be a prominent feature in the street-scene. In addition, the proposed gable windows to the non habitable rooms on Plot 2 could be conditioned to be obscurely glazed.
 10. As far as No 79 is concerned, I am satisfied that there would be no harmful effects from overlooking given the distance and oblique angle to Plots 2, 3 and 4 from the back of this dwelling, and the proposed planting along the boundary with Plots 5 and 6. I am further satisfied that the proposed 2 metre high brick wall and landscape buffer would provide sufficient noise reduction between No. 79 and the development to prevent any harm to the living conditions of the occupants. Finally, it is my opinion that the claim that the proposal would lead to an increase in crime has not been substantiated.
 11. I have taken into consideration the Officer's conclusion that any landscaping, highways and surface water problems could be controlled by the imposition of carefully worded planning conditions and from my assessment of the proposal I see no reason to disagree. Overall I consider that the spatial relationships between the proposed dwellings and between them and their neighbours would be characteristic of the general area and would provide satisfactory distances between dwellings. Accordingly, the proposal would not be harmful to the living conditions of future occupants of the development or the occupants of nearby dwellings and would not conflict with LP Policy Gen 3.
 12. My attention has been drawn by Hertfordshire County Council to the requirement for the appellants to make contributions towards the cost of

primary and secondary education, libraries, youth and childcare services and fire hydrant provision in the District. I am satisfied that the Unilateral Undertaking, given by the appellant to Three Rivers District Council and Hertfordshire County Council, would meet this requirement in accordance with the County Council's, *Planning Obligations Guidance Toolkit for Hertfordshire*, and I give it significant weight in this matter.

13. I shall attach conditions relating to sample materials, restricting additional windows, disposal of surface water, boundary treatment, demolition works, lopping and felling, tree protection, landscaping, access, parking and manoeuvring, wheel washing and contractor parking as suggested by the Council. All are necessary and reasonable to ensure a satisfactory development though I shall amend the Council's suggested wording for greater precision and in the light of the advice in Circular 11/95.
14. In addition I shall attach a condition in respect of obscure glazing to protect the living conditions of the occupants of No. 83 as suggested in paragraph 5.18 of the appellants' Grounds of Appeal. However, with regard to removing permitted development rights, Circular 11/95 advises against such a condition save in exceptional circumstances. On the evidence before me, I do not consider that such circumstances exist in this instance that would justify applying the suggested restrictions, particularly given the wide range of those put forward.
15. I have taken into account all the other matters raised in the representations, including those addressed to the Council at the application stage, but do not find that they alter or outweigh the conclusions I have reached on the merits of the case. For the reasons given above I conclude that the appeal should be allowed.

Formal Decision

16. I allow the appeal and grant planning permission for the demolition of the existing buildings and the erection of 6 dwellings with garages, parking and access road at 81/81A Hornhill Road, Maple Cross, Hertfordshire, WD3 9TG in accordance with the terms of the application Ref 08/0134/FUL, dated 21 January 2008, and Drawing Nos. 2583/1 Rev D, 2583/2 Rev C, 2583/4 Rev C, 2583/5 Rev B, 2583/6 Rev B and 07/326 submitted therewith, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the building 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.
 - 3) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking, re-enacting or modifying that Order), no windows/dormer windows other than those expressly authorised by this permission shall be constructed on the flank elevations or flank roof planes of the dwellings hereby

- permitted nor in the front roof slope of the dwelling fronting onto Hornhill Road.
- 4) The gable windows in the west elevation of Plot 2 facing the garden of 83 Hornhill Road shall be glazed with obscure glass and thereafter retained as such.
 - 5) No development shall take place until details of the method of surface water disposal from the accesses and parking areas have been submitted for approval in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 6) No development shall take place until there has been submitted to and approved in writing by the local planning authority a plan indicating the positions, design, materials and type of boundary treatment to be erected. The boundary treatment shall be completed before the buildings are occupied in accordance with a timetable agreed in writing with the local planning authority. Development shall be carried out in accordance with the approved details.
 - 7) No development shall take place until all existing buildings and structures on the site have been demolished and all materials resulting there from have been completely removed from the site.
 - 8) No trees, shrubs or hedges within the site except those shown on the approved plan 07/326 or otherwise clearly indicated as being removed in the approved details shall be felled, lopped or pruned, nor shall any roots be removed or pruned without the prior written consent of the local planning authority during development and for a period of 5 years after completion of the development hereby approved. Any trees, shrubs or hedges removed without such consent, or which die or become severely damaged or seriously diseased within 5 years from the completion of the development hereby permitted shall be replaced with trees, shrubs or hedge plants of similar size and species.
 - 9) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of tree protection measures, which shall include details of all trees and hedgerows on the land to be retained, together with measures for their protection in the course of development. No development shall take place on site until the approved protection measures are in place. The approved protection measures shall be retained until development is complete.
 - 10) No development shall take place until there has been submitted to and approved in writing by the local planning authority a scheme of hard and soft landscaping. The approved landscaping scheme (with the exception of planting, seeding and turfing) shall be implemented before the buildings are occupied and thereafter retained.
 - 11) No development shall take place until details of the layout and construction of the new access to Hornhill Road have been submitted to and approved in writing by the local planning authority. The buildings shall not be occupied until the access has been laid out and constructed in accordance with the approved details.

- 12) No development shall take place until details of the layout, size and construction of the proposed vehicle parking, garaging and manoeuvring area have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details prior to the occupation of the approved buildings and these areas shall be maintained clear of any obstruction and retained for their intended purpose at all times thereafter.
- 13) No development shall take place until facilities for cleaning the wheels of vehicles during construction of the development, and preventing transfer of mud and debris onto the highway, have been installed and brought into use in accordance with details previously submitted to and approved in writing by the local planning authority; and those facilities shall be retained in operation until construction is complete.
- 14) Prior to the commencement of the site works details of parking for all contractors, sub-contractors, visitors and delivery vehicles shall be submitted to and approved in writing by the local planning authority and that area shall be maintained clear of any obstruction and retained for that purpose at all times during the period of site works.

Richard McCoy

INSPECTOR