



Appeal Decisions

Inquiry held on 18 May and 27 and 28 September 2010

Site visit made on 28 September 2010

by **M F Aldous BA (Hons), Dip Mgt, MRTPI**

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

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Decision date:
8 October 2010

Appeal A Ref: APP/P1940/E/09/2119594

Land at 63 and rear of 61 and 65 Nightingale Road, Rickmansworth, Hertfordshire WD3 7BU.

- The appeal is made under sections 20 and 74 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant conservation area consent.
- The appeal is made by Henry Homes PLC against the decision of Three Rivers District Council.
- The application Ref 09/1398/CAC, dated 15 September 2009, was refused by notice dated 10 November 2009.
- The demolition proposed is of 63 Nightingale Road and an outbuilding to the rear of 61 Nightingale Road, followed by the construction of four detached houses, garaging and access road.

Appeal B Ref: APP/P1940/A/09/2119591

Land at 63 and rear of 61 and 65 Nightingale Road, Rickmansworth, Hertfordshire WD3 7BU.

- 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 Henry Homes PLC against the decision of Three Rivers District Council.
- The application Ref 09/1397/FUL, dated 15 September 2009, was refused by notice dated 10 November 2009.
- The development proposed is the demolition of 63 Nightingale Road and an outbuilding to the rear of 61 Nightingale Road and the construction of four detached houses, garaging and access road.

Decisions

1. I dismiss Appeal A and Appeal B.

Procedural Matters

2. Given the closely related nature of the two appeals, and the need for an appropriate scheme to be approved featuring a replacement dwelling for that to be demolished, the reasoning which follows will consider the merits of two appeals concurrently.
 3. At the Inquiry, the Appellant submitted a completed unilateral undertaking dealing with the provision of a financial contribution towards local sustainable transport improvements arising from the proposed increase in housing numbers. The Council indicated that the document was acceptable and effectively discharged the Appellant's responsibilities in this regard. I have
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examined the document against appropriate regulations dealing with such payments and find it to be acceptable. As such I shall make no further reference to this matter.

4. Both main parties made extensive reference to recently dismissed appeals relating to this site (APP/P1940/A/08/2072846, APP/P1940/A/08/2082654 and APP/P1940/E/08/2072850). Those decisions clearly represent material considerations of some significance to which I shall have full regard, whilst noting the differences between the former and current proposals.
5. Consideration was given both before, and during the Inquiry, to the recent changes announced by the Government to the policy contained within PPS3. The main parties were in accord that whilst the revised approach towards the status of garden land was of note and relevance, in this case the principle consideration, as is clearly evident from the Council's reasons for refusal, relates squarely to whether the proposals would or would not preserve the character or appearance of the conservation area. I agree, and the reasoning which follows reflects this approach.

Main issue

6. The main issue is therefore whether the proposals would preserve or enhance the character or appearance of the Upper Nightingale Road Conservation Area, within which the appeal site is located.

Reasons

7. The appeal site comprises the house and curtilage of number 63 and parts of the rear gardens of 61 and 65 Nightingale Road. The site forms part of a low density residential area which is within the Upper Nightingale Road Conservation Area. The designated area is small and compact and contains properties which date from the 'Arts and Crafts' era, as the Conservation Area Appraisal highlights. I consider that the design of the proposed dwellings draws on these local architectural influences, within the framework of a modern interpretation, and that in this regard no substantive criticism of the proposals is valid.
8. The Conservation Area is typified by often sizeable, detached and semi-detached frontage houses set back from the roads, within what are frequently generous plots. As indicated, several houses are redolent of the Victorian and 'Arts and Crafts' era although there are more recent properties. The spacing between dwellings varies, but usually allows glimpses of the extensive rear garden areas which contain many good and mature trees and shrubs. These visual elements, together with the built form, contribute to the assets of the conservation area which overall has a well settled, verdant and tranquil nature.
9. The pattern of development within the Conservation Area is therefore well established and mature, with an air of spaciousness which is clearly reflected in the low housing density. Whilst the proposals before me would seek to make more effective use of the site for housing, the plot sizes and net housing density created would not be uncharacteristic of the surrounding area and as such are acceptable.

10. Most of the significant trees and many shrubs on the site would be retained. Some would inevitably be lost as a result of the development, but others would be planted as replacements under a landscape scheme which would need approval. Most of the trees along the site boundaries would be retained. I note that there is no objection by the Council to the proposal in these terms. Whilst several local residents have expressed concerns of this kind, I consider that the generally well treed nature of the area would largely be retained and as such resistance to the proposal in this regard can not be supported.
11. There was considerable debate at the Inquiry about whether the Council had an 'in principle' objection to backland housing development at this site. Such an approach would be inappropriate, but from the evidence submitted to me, as examined at the Inquiry, I do not consider that it formally adopts this position. It has consistently rejected proposals for back land development on this site and has been supported on appeal. However, it is duty bound to consider fresh and amended proposals on their merits and I consider that it has discharged this responsibility in a reasonable manner.
12. The proposal before me takes as its starting point the dismissed appeals cited in paragraph 4 above. The Appellant has legitimately sought to examine and address the particular points of concern raised by the previous Inspector, and to formulate revised proposals taking account of such matters. I do not doubt that this has been a positive and constructive attempt to overcome concerns raised, and I have readily noted the changes that have been made. However, it is not implicit in former decisions that by addressing any particular points of concern permission would automatically follow. It would clearly be inappropriate for any Inspector to effectively pre judge future, different proposals.
13. I have carefully noted the changes that have been made to the earlier dismissed appeals. These relate primarily to the width of the access road, the disposition and degree of separation between the proposed three dwellings to the rear of the site and the orientation of the proposed house at plot 4 and the positioning of its front entrance. I acknowledge that the changes made in relation to the positioning of the houses to the rear would produce a less cramped arrangement and would potentially reduce the overall visual impact of the grouped front elevations of these houses. It would also result in a greater 'gap' between plots 2 and 3, allowing more of the well treed rear boundary of the site, which adjoins a cemetery, to be viewed.
14. However, the significant widening of the access road (to make it more consistent with other openings off the principal roads serving groups of houses in the broader area), would mean that the houses on plots 2 and 3 would still be readily visible from the general street scene. All of the three houses would be glimpsed between retained frontage properties to a greater or lesser degree, as well as being readily visible from other parts of the public realm including the cemetery to the rear.
15. The net effect would still in my judgement be a rather stark and unrepresentative intervention in the well established pattern and layout of development found within the conservation area. The designated area is free from back land proposals of this kind and the scheme before me because of its

form and layout would significantly disturb this pattern and the rhythm of built development found within the designated area.

16. Whilst I therefore applaud the determined efforts made to overcome some specific concerns raised in relation to earlier proposals, the essential fact remains that the proposal would introduce three sizeable and visible dwellings into part of the back land area which is typified within the conservation area by being open, attractive garden space which contributes positively to its visual qualities or assets in that form.
17. The proposals would therefore introduce an uncharacteristic and incongruous form of built development into this sensitive location. As such I consider that they would fail to preserve the character or appearance of the conservation area contrary to the requirements of PPS5, or to satisfy the tests set out within saved policies C1 and H14 of the Three Rivers Local Plan. By implication that judgement also means that the requirements of policy C6 would not be met.

Other Matters

18. Some local residents, among the large number of adverse representations received, expressed reservations about potential damage to living conditions in the form of loss of outlook, overlooking or damaged privacy.
19. The development would inevitably amend the outlook for some residents from certain parts of their properties. That in itself is not harmful. I consider that all of the proposed dwellings would have a satisfactory spatial relationship with adjoining properties by virtue of the distances involved and the detailing of their design, so as to avoid any harmful damage to overlooking or privacy considerations.
20. I do however note that most respondents share my concerns about the impact the development would have upon the character and appearance of the conservation area. This supports the conclusions outlined above.

Conclusions

21. I appreciate that this proposal would contribute to the mix and stock of dwellings within the district, which is quite dependent upon redevelopment schemes of this kind to achieve housing growth targets. I also acknowledge the good sustainability credentials of the site, both in relation to public transport connectivity and the proximity of the town centre where a wide range of other services are conveniently. I have also indicated that in terms of dwelling design, plot size, housing density and effect on trees the proposal is acceptable.
22. These factors represent positive elements in support of the proposal. However, I have found that the nature of the development proposed, in spite of the adjustments made to earlier schemes, would still have an adverse impact on the visual qualities of the conservation area by introducing an uncharacteristic and incongruous form of back land development that is not found within the designated area. As such it would be contrary to national policy guidance and the adopted development plan. When weighed in the overall planning balance this must be the decisive factor against the proposal.

23. For the reasons set out above, and having had full regard to all other matters raised, I therefore conclude that these appeals should not succeed.

Michael Aldous

INSPECTOR

APPEARANCES

FOR THE COUNCIL

Mr R Jameson LLB Solicitor	Instructed by Three Rivers District Council
He called:-	
Mr L Moore	Area Team Leader, Three Rivers District Council
BA (Hons), Dip TP, MRTPI	
Mr S Farrell	Senior Planning and Conservation Officer, Three Rivers District Council
BA (Hons), MRTPI	

FOR THE APPELLANT

Mr M Beard of Counsel	Instructed by PHD Chartered Town Planners
He called:-	
Mr C Higgenbottam	Tempietto Architects
BA, BArch, Dip BCCons(AA), IHBC, RIBA	
Mr P Hughes	PHD Chartered Town Planners
BA (Hons), MRTPI, PCMS Dip Man, MCMI	

INTERESTED PERSONS

Mr A Smith	Local resident
Mr B Godfrey	Local resident

DOCUMENTS

Document 1	Council letter of notification of the Inquiry.
Document 2	Mr Godfrey's submission.
Document 3	Plans relating to previous appeals and drawing 1606/15.
Document 4	Appellant's opening statement.
Document 5	Council's opening statement.

Document 6	Revised lists of possible conditions.
Document 7	Unilateral Undertaking submitted by the Appellant.
Document 8	Council's closing statement.
Document 9	Appellant's closing statement.