



# Appeal Decision

Site visit made on 20 August 2010

by **John Felgate BA (Hons), MA, MRTPI**

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

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**Decision date:**  
**17 September 2010**

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## Appeal Ref: APP/P1940/A/10/2125903

### Land at 81 and 81A Hornhill Road, and rear of 2-24 Woodland 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 Clovercourt Homes Limited against the decision of Three Rivers District Council.
- The application Ref 09/1243/FUL, dated 17 August 2009, was refused by notice dated 26 October 2009.
- The development proposed is described as "removal of 81 and 81A Hornhill Road, and erection of 14 dwellings with garaging, parking and access".

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### Decision

1. I dismiss the appeal.

### The appeal site

2. In the application form, the site is described as above. For the avoidance of doubt, the land includes: the semi-detached houses Nos 81 and 81A Hornhill Road; the single storey building known as No 81B, and other buildings, located behind Nos 81 and 81A; a parcel of vacant land surrounded by conifer trees, to the rear of 77 and 79 Hornhill Road; and the rear parts of the gardens of Nos 2-24 (evens) Woodland Road.

### Planning background

3. In October 2008, planning permission was granted on appeal (APP/P1940/A/08/2072522) for the demolition of the existing buildings and erection of six dwellings, parking and an access road. The site included 81, 81A and 81B Hornhill Road, and the land to the rear of 77-79, but excluded the Woodland Road properties. There is also an alternative permission, relating to the same site area, for the retention of the existing dwellings and erection of two new units, granted by the Council in January 2010 (09/1958).

### Main issues

4. From the submissions before me, the main issues in the present case are:
    - the development's effects on the character and appearance of the area;
    - the effects on neighbouring occupiers;
    - whether adequate provision would be made for household refuse;
    - and whether the development should be permitted in the absence of a legal obligation in respect of contributions to local community infrastructure.
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## Reasons for decision

### *Character and appearance*

5. National policies relevant to the design and layout of new housing and other developments are contained in PPS1<sup>1</sup> and PPS3<sup>2</sup>. Both documents seek to achieve schemes that are well designed, integrated with their surroundings, and which take opportunities to maintain or improve the character and quality of the area. PPS3 in particular seeks to ensure that developments create attractive and distinctive streets and spaces. In addition, Appendix 2 of the Local Plan<sup>3</sup> discourages layouts where dwellings would have an outlook over garage courts or extensive parking areas, or where flank walls would have an overbearing visual impact.
6. Hornhill Road and Woodland Road are residential streets within the small settlement of Maple Cross. Both roads comprise mainly semi-detached houses with long rear gardens, typically of around 30-35m in depth. Together, these two rows of gardens form a largely unbroken swathe of green space, which is seen not only from the surrounding properties themselves, but also through the gaps between the buildings. This pattern of development gives the area a distinctive appearance of openness and spaciousness, which is an important element in its pleasant character.
7. In the appeal proposals, the layout of proposed plots Nos 1-6, and the access road serving those plots, would be generally similar to the scheme approved in 2008. However, the dwellings on plots 7-14, extending into the gardens of the Woodland Road properties, would be additional to either of the approved schemes. At present, this particular group of gardens are mostly divided by fences or hedges of no more than about head height, so that there are extensive lateral views along the row, and this adds to the impression of openness in this part of the locality.
8. Proposed dwellings Nos 7-14 would be arranged in three blocks, with their gable ends facing towards Woodland Road, at distances of only about 1m from the newly created boundary which would cut across these gardens. In this position, they would be clearly visible in public views from the road, as well as from the adjoining properties. In the context of the otherwise open rear garden environment that I have described, it seems to me that the proposed development would thus appear as an alien and intrusive feature. The lack of space for any effective landscaping to the new boundary would add to the starkness of the development's appearance and further exacerbate its visual impact. As such, the proposed scheme would not be well integrated with its surroundings, nor would it maintain or improve the character and quality of the area, as required by the above policies.
9. In addition, I have serious concerns regarding the quality of the environment that would be created, as seen from within the development itself. At the development's centre there would be a space formed at the convergence of the main access road, the turning head, the driveway serving plots 7-9, and various other parking and garaging areas. The only built frontage to this space

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<sup>1</sup> Planning Policy Statement 1: Delivering Sustainable Development, 2005

<sup>2</sup> Planning Policy Statement 3: Housing, 2006 (revised 2010)

<sup>3</sup> The Three Rivers Local Plan, adopted 2002

would be formed by garages and flank walls. Given its focal position, all movements into and out of the site would pass through or terminate here. In my view it seems likely that such a large, hard surfaced vehicular area, with little apparent opportunity for any landscaping, would become an unattractive and unsightly feature, blighting the appearance of the whole development.

10. To make matters worse, it seems to me that the proposed layout as a whole would fail to create any coherent relationships between buildings or spaces. It would thus lack any sense of place or identity. I appreciate that the site is an awkward shape, but that does not justify a disjointed and unsatisfactory development. And whilst I note that the proposed housetypes would be similar to those already approved, I consider that their repetition across the whole site, with minimal variation, would result in an excessively monotonous and bland environment. In all these respects, the proposed scheme would fail to achieve the high standards of design and layout sought by the policies referred to in paragraph 5 above.
11. Whilst some of the proposed plots would have gardens smaller than the guidelines in Local Plan Appendix 2, I agree that in this case none is so small as to justify refusal on that ground alone. Nevertheless, this does not overcome the other shortcomings that I have identified.
12. I therefore conclude that, for the reasons already explained, the development now proposed would cause unacceptable harm to the character and appearance of its surroundings.

*Effects on neighbouring occupiers*

13. I appreciate the concerns expressed by neighbouring occupiers with regard to the effects on their living conditions. However, none of the proposed new dwellings would have habitable room windows directly facing towards existing properties at first floor level or above. Some views into the adjoining gardens would be possible, but such views would either be at an oblique angle or would be at distances in excess of 11m. And in any event, this would mainly affect the far ends of the gardens, which are already open to overlooking from other neighbouring properties. Consequently, no unacceptable loss of privacy would arise. Furthermore, the new dwellings on plots 9,10 and 14 would be around 17m from the windows of the nearest of these existing properties, which would be sufficient to avoid any overbearing visual impact or loss of light. In these respects therefore, I consider that the proposed development would not conflict with any of the planning policies referred to by the Council.
14. The gardens of the tenanted properties at Nos 2-24 Woodland Road would be reduced to around 17m in length. I fully understand the feelings of those occupiers who have tended their existing longer gardens for many years, but in planning terms it seems to me that the gardens retained for these properties would be of an adequate size, and would meet the Local Plan guidelines.
15. I therefore conclude that the proposed development's effects on the living conditions of neighbouring occupiers would not be so harmful as to justify a refusal of planning permission. However, this does not overcome the harm that I have identified to the area character and appearance.

*Household refuse*

16. I note the Council's concern that the submitted plans indicate the tracking path for only a 9m refuse collection vehicle, and not the 11m vehicles used in the area. However, I have commented earlier on the large amount of hard surfacing which is proposed in the central part of the site. Whilst my concerns about the visual impact of that area remain, it seems likely that in the present scheme provision for larger vehicles could be accommodated without increasing the overall area of hardstanding.
17. I agree that it is important that adequate provision should be made for the storage of refuse and recyclable materials awaiting collection, and I accept that in the case of the mid-terraced houses on plots 3, 8 and 13 this could not be conveniently located in their rear gardens. But there seems no reason why enclosed bin stores could not be accommodated at the front of these three units.
18. Had there been no other objections therefore, it appears that these matters could have been overcome by conditions, satisfying Local Plan Policy N10.

*Contributions to local infrastructure*

19. The financial contributions sought by the Council, to local community infrastructure including education, library, youth and childcare facilities, open space, play areas and transport, are not disputed by the appellants. Based on the evidence before me, I accept that in this case a planning obligation to provide for those contributions would meet the relevant legal and policy tests. However, no such obligation has been entered into.
20. I note the appellants' willingness to be bound by a condition to the same effect. But such a condition would conflict with the advice in paragraph 83 of Circular 11/95, that a requirement to pay sums of money in return for a planning permission may not lawfully be imposed by condition. For the same reason, it would not be appropriate in my view to impose a condition requiring an obligation to be entered into.
21. In the circumstances, I find that the lack of a completed obligation providing for contributions to those items indicated by the Council, is an additional factor counting against the appeal.

**Other matters and conclusion**

22. I accept that the appeal site is residential land within a built up area. I also agree that, notwithstanding the recent amendments to PPS3, planning policies still encourage the efficient use of such land, and that the development of garden land is not ruled out where it can be carried out without causing harm. But in this case I have found that the proposed development would cause unacceptable harm to the area's character and appearance, and would fail to make proper provision for community infrastructure.
23. I have taken account of all the other matters raised, but none outweighs these compelling objections. The appeal is therefore dismissed.

*John Felgate*

INSPECTOR