
Appeal Decision

Site visit made on 3 July 2017

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 3 August 2017

Appeal Ref: APP/B1930/W/17/3171226

**Land to the rear of Beaumont Court, Milton Road, Harpenden,
Hertfordshire AL5 5LE**

- 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 Paratrend Limited against the decision of St Albans City & District Council.
 - The application Ref 5/16/3269, dated 28 October 2016, was refused by notice dated 3 February 2017.
 - The development proposed is demolition of existing garages and erection of 1 x 2 bed and 2 x 3 bed townhouses with associated parking.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this appeal are;
 - whether the proposed development would provide adequate living conditions for future occupiers of the proposed town houses in terms of sunlight, daylight and access to amenity space;
 - the effect of the proposal on the character and appearance of the area with regard to trees; and,
 - whether the proposal would make adequate provision for parking and whether its effect on local on road parking would lead to inconvenience and disturbance detrimental to neighbouring residential amenity.

Reasons

Living conditions

Daylight and sunlight

3. The garages that would be demolished to make way for the proposed development are located close to the rear boundary of Beaumont Court. The proposed terrace of three townhouses would occupy a similar position to the rear line of garages very close to a row of tall mature lime trees along the rear boundary. The Council estimates that the trees would be within 3m of the upper floors of the proposed dwellings. This has not been disputed by the appellant. On this basis, and the cross sections shown in the submitted plans, the recessed ground floor would be only marginally further away. These trees are protected by a Tree Preservation Order and would be retained as part of the proposed development.

4. Directly facing these trees within the rear elevation of the proposed dwellings would be large sliding ground floor windows serving open plan kitchen / dining rooms. On the first floor, the sole aspect of the living rooms to two of the dwellings would face the trees. In the third, at the southern end of the row, a balcony off the living room would face in the same direction. On the second floor, the only windows to the rear bedrooms in all the houses would also face the trees.
5. Whilst the appellant states that residents would have access to the communal gardens of Beaumont Court, the short rear gardens to the proposed houses would be the only private amenity space dedicated to each of the dwellings. As a result, they would be of high amenity value. The appellant states that the lime trees have been recently pruned. Nevertheless, they would overhang the majority of the shallow back gardens and enclose them.
6. Given the close proximity of the proposed houses to the trees, the potential for significantly reduced levels of sunlight and daylight exists. Policy 70 of the St Albans District Local Plan Review ('Local Plan') seeks natural light levels that meet the requirements of the Building Research Establishment (BRE). The appellant has submitted a report based upon *BRE Report 209 Site Layout Planning for Daylight and Sunlight*. It found that levels of daylight and sunlight would be well above minimum requirements. However, the report excluded the effect of the trees. Whilst the BRE report allows for this to normally occur, in this case, as the trees would be so close to the rear elevation of the terrace and form such a tall dense band, it would be inappropriate to do so.
7. As a result, in the absence of a BRE assessment of daylight and sunlight that takes these trees into account, I am unable to conclude that the scheme would not result in darker living conditions with lower levels of daylight and sunlight than it is reasonable to expect. Based upon what I have seen of the site, it appears to me likely that the trees would reduce levels of sunlight and daylight to the extent that living conditions would be materially harmed during that half of the year when the trees are in leaf.
8. Some prospective residents may be accepting of the lower levels of daylight and sunlight that are likely to occur. However, it is the function of the planning system to secure good living conditions for future occupants of buildings, and in this regard, the proposal would fall significantly short of this goal.

Access to amenity space

9. In terms of access to amenity space, policy 70 of the Local Plan requires that the size of a private garden should reflect the number of persons for which the dwelling has been designed, as well as local residential character. Supplementary Planning Guidance '*Design Advice Leaflet No 1*' provides advice in this regard. As it has been formally adopted following public consultation I attach significant weight to it. For three bedroom houses, private gardens of 80sqm should preferably be provided and two bedroom houses should have gardens of 60sqm. The Council calculates that the dwellings would have private rear gardens of between 31sqm and 41.5sqm which is significantly substandard.
10. Nevertheless, there are other considerations to take into account. The communal gardens to Beaumont Court to the front of the proposed houses are located within the appeal site and the appellant states future residents would have access to them. The public open space at Harpenden Common is also within a six minute walk of the site and there have been a number of

residential developments for dwellings where the Council have accepted smaller gardens when public open space is nearby. Taking all these matters into account, I therefore find that adequate access to amenity space would be provided.

11. Notwithstanding my favourable findings in relation to access to amenity space, this does not overcome the low levels of daylight and sunlight that are likely to occur within the main living areas of the houses and their rear gardens when the lime trees are in leaf. As a result, poor living conditions would be provided for future residents. This would be contrary to policy 70 of the Local Plan and a core planning principle of the National Planning Policy Framework ('the Framework') which seek a good standard of amenity for future occupants of buildings.

Character and appearance

12. The Council considers that the design of the proposed townhouses, which would be consistent with the varied design features of development in the area, would be acceptable. I agree with that assessment.
13. In terms of the effect of the proposed development on trees, Milton Road is a mature leafy residential road. Beaumont Court is one of a number of flat developments on the road where a band of trees along the rear boundary serve to reinforce its verdant character and separate residential development from the train station to the west. The lime trees along the rear boundary are 7m to 8m tall. Although they have been recently pruned their strong regrowth is evidence of their vigour and collectively they have good form. The group value of the trees is recognised by a Tree Preservation Order.
14. As I have noted, the lime trees would overhang the vast majority of the only private amenity space dedicated to each of the proposed houses and would be located very close to the windows within the rear elevation serving their main living areas on each floor. Consequently, if the development was to go ahead, as I have described in relation to the previous main issue, the resulting overshadowing and reduction in daylight when these trees are in leaf would have a significant adverse effect on living conditions. Sticky honeydew from the lime trees is also likely to affect the rear of the houses and any items such as garden furniture left outside. As a result, there would be pressure from future residents for the trees, even in their recently pruned state, to be further cut back or even felled.
15. In my view, given the adverse effects described, the Council would not be able to resist this pressure. Such works, in substantially reducing the foliage of the trees, or resulting in their loss, would have a significant adverse effect on the character and appearance of the area.
16. The appellant states that future occupiers would value the trees and make an informed judgement before moving in as to whether they found them acceptable. However, if they were to view the property in winter they would not be aware of the extent to which the trees would adversely affect their living conditions. Whilst the trees separate the rear elevation of the proposed dwellings from the railway station car park, the car park is at a lower level than the appeal site. Consequently, removal of the trees would open up views beyond the car park which future residents may well find acceptable.
17. Reference has been made to development on either side of the appeal site where trees along the rear boundary have been retained. In these cases

though dwellings are set significantly further back from the trees than would be the case in the appeal scheme. As a result, the living conditions of the occupiers of these properties have not been adversely affected and so pressure for the trees to be cut back or felled is unlikely to have occurred.

18. Developments at Chime Square and 147 – 149 Westfield Road have been referred to where residential development has been allowed close to existing trees. However, it is an established principle that each application is assessed on its own merits. The Council exercised its judgement on the evidence in relation to those particular cases. I have similarly used my judgement in respect of the evidence in relation to the appeal before me. Consequently, reference to these permissions has not altered my findings in relation to this issue.
19. For all of these reasons, I therefore conclude that if the development went ahead it is likely to result in the protected lime trees being kept in a consistently severely pruned state or felled. Such works would result in a notable break in the dense tree band that separates development along Milton Road from the train station and would harmfully erode the green and verdant character of the area. As a result, the development would have a harder, more urban character out of keeping with residential development along Milton Road. The harm that would be caused to the character and appearance of the area would be significant and contrary to policies 69, 70 and 74 of the Local Plan. These policies require the protection of the character and appearance of an area through a high standard of design that, including the retention of significant trees. It would also be contrary to a core planning principle of the Framework that planning should always seek to secure high quality design.

Local parking

20. Whilst the adjacent block of flats at Beaumont Court is included in the red line as drawn on the submitted plans, they are also edged blue, with the appellant confirming that they are excluded from the appeal site on the basis that his freehold for the site excludes the building containing the flats, with the garages having always been the subject of separate leases, with the lessees given notice to quit some two years ago. Whether or not it is fair or equitable, I am not aware, in this regard, of any condition or planning obligation in relation to the flats that secures the garaging provision in perpetuity for residents. All things considered, including the case law referred to by the Council I have, for the purposes of this appeal, treated the appeal site as excluding the flats at Beaumont Court.
21. Policies 39 and 40 of the Local Plan detail parking standards for residential development. These standards seek 2.5 spaces for a 2 or 3 bedroom dwelling. As a result, in order to comply with the Council's parking standards 7.5 spaces should be provided for the proposed development. The scheme would provide 4 spaces: one for each of the proposed dwellings and a visitor space.
22. The parking standards have been superseded by Council's *Revised Parking Policies and Standards* (2002) which allows schemes to fall slightly below the number of spaces sought. Parking provision though at only slightly more than half of the total sought by the Local Plan is significantly below these standards. However, the Framework is an important material consideration.
23. The parking standards in policies 39 and 40 of the Local Plan and the revision predate the Framework by a considerable amount of time. In setting parking

standards, the Framework advises that accessibility and the availability of public transport should be taken into account. In setting blanket parking standards that apply across the whole district, the parking standards fail to differentiate between isolated locations where future occupiers would be reliant on private cars to carry out day to day activities, and those where a car would not be essential in order to do so. As a result, policies 39 and 40 are inconsistent with the Framework and I attach limited weight to them.

24. Given that the town centre with all its services and facilities, together with the train station and nearby bus stops, are within five minutes walk of the appeal site, I find that parking provision of the level proposed would be acceptable in this situation.
25. The proposed development would result in the loss of the court of garages at the rear of Beaumont Court. Policy 42 of the Local Plan seeks to protect garage courts subject to certain considerations. As I have noted, in relation to parking provision the Framework advises that accessibility and the availability of public transport should be taken into account. However, policy 42 does not do so. Consequently, I find that this policy is also inconsistent with the Framework and I attach limited weight to it.
26. The proposed redevelopment of the garage court, owing to the likely harm to protected trees, would not result in a significant visual improvement and high levels of car ownership in the ward indicate that there would be demand for its garages. However, the appeal site is in a location where services, facilities and public transport are readily available on foot. Moreover, the garages are too small to accommodate the size of many modern cars. Consequently, whilst the redevelopment of the court would be contrary to policy 42, in practice usable garage parking would not be lost and its redevelopment, consistent with a core planning principle of the Framework, would be consistent with actively managing patterns of growth to make the fullest possible use of public transport, walking and cycling.
27. Taking all these matters into account, whilst not compliant with development plan policy, I have found that adequate parking provision would be made for the proposed development and that the redevelopment of garages that cannot accommodate many modern cars would be acceptable in planning terms.
28. The Council asserts that the proposed scheme would result in additional on street parking that would lead to inconvenience and disturbance detrimental to neighbouring residential amenity. However, no objective or substantiated evidence of on road parking problems has been presented, and enforcement of the controlled parking zone would prevent on road parking that would cause such harm. I therefore conclude that the effect of the proposed development on local parking would not harm residential amenity.

Planning balance and overall conclusion

29. The Framework sets out a presumption in favour of sustainable development. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: social, environmental and economic.
30. The appellant states that the Council has a housing land supply of 3.73 years. This has not been challenged by the Council. Consequently, a notable undersupply of housing exists in the District. The development would therefore make a small contribution towards the provision of new housing at a time of

need. However, the poor quality living conditions that would be provided for future occupiers, in terms of sunlight and daylight, would conflict with the social dimension to sustainable development and the development plan.

31. Whilst satisfactory living conditions could be provided if the lime trees were kept in a severely pruned state, or felled, this would result in demonstrable harm to the character and appearance of the area. This would be contrary to the environmental dimension of sustainable development and the development plan. In compliance with this dimension though, the proposal would make efficient use of previously developed land which the Framework encourages the re-use of.
32. Economically, the scheme would generate some construction employment, although by its nature this benefit would be short lived. Future occupants of the proposed dwelling would also help boost the spending power of the local economy slightly.
33. Located within the town housing on the site is in principle is supported by the Local Plan. The appeal site is also well located in terms of accessibility to services, facilities and the train station in Harpenden. The proposed development would result in some social, economic and environmental benefits which I have described above. However, the shortcomings of the proposed scheme in terms of its significant adverse effects on the living conditions of future occupiers or, if this was to be addressed by severely pruning or felling the trees, the harm that would be caused to the character and appearance of the area is a significant concern. The adverse impacts in this regard would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework and development plan taken as a whole.
34. As a result, the proposal would not represent sustainable development. In the circumstances of this appeal, material considerations therefore do not justify making a decision other than in accordance with the development plan. For these reasons, the appeal should be dismissed.

Ian Radcliffe

Inspector