
Appeal Decision

Site visit made on 1 August 2017

by Rachael A Bust BSc (Hons) MA MSc LLM MEnvSci MInstLM MCMi MRTPI

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

Decision date: 30 August 2017

Appeal Ref: APP/B1930/W/17/3167399

Land r/o 42 Tavistock Avenue, St Albans AL1 2NJ

- 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 Mr D Goodman of Philip Dean Limited against the decision of St Albans City & District Council.
 - The application Ref 5/16/2038, dated 30 June 2016, was refused by notice dated 13 September 2016.
 - The development proposed is the conversion of existing double garage into a single studio dwelling and alterations.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I note that an interested party has identified discrepancies in the submitted plans. The existing plans of the garage incorrectly show the location and type of doors and windows. I observed these differences on my site visit and have taken into account the actual built form of the existing garage in determining the appeal.
3. The appeal submission indicates that the top 1 metre of the 3 metre high fencing on the north-east boundary would now be a trellis. I have been provided with no plans or further details to illustrate the nature of the trellis. I consider that this constitutes a change which is material to aspects of dispute in this appeal. I consider that prejudice would arise to consultees and neighbours who, in the absence of full details, have not had the opportunity to comment upon this change. I have therefore determined the appeal on the basis of the planning application submission which was before the Council when it made its decision.

Main Issues

4. The main issues are:
 - the effect of the proposal on the character and appearance of the surrounding area;
 - the effect on the living conditions of the occupiers of neighbouring properties, Nos 40 and 42 Tavistock Avenue and Nos 2 and 4 Leaf Way, with particular reference to outlook, daylight and sunlight and noise and disturbance; and
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- whether future occupiers of the proposed dwelling would enjoy satisfactory living conditions, with particular reference to outlook, privacy and internal floor space.

Reasons

Character and appearance

5. The appeal site lies to the rear of No 42 Tavistock Avenue. It is adjacent to Leaf Way which runs in between Nos 42 and 44 and provides access to a handful of other dwellings before ending at the junction with Public Footpath 47 (Watling Way). To the north-west lie Nos 2 and 4 Leaf Way, a pair of 2-storey semi-detached dwellings which face the existing area of hard standing in front of the appeal site. To the south-west on the opposite side of Leaf Way is Vesta Lodge a large residential care home surrounded by open space and mature poplar trees. To the south-east are garages to the rear of Nos 44 and 46 Tavistock Avenue.
6. The appeal site can be partially seen from Tavistock Avenue along the entry spur of Leaf Way. There is a sense of formal enclosure for the majority of this part of Leaf Way which is partly due to the built form of Nos 42 and 44 and their respective rear boundary fencing. However, beyond the garage building Leaf Way opens up and there is a distinct sense of space. Views of Vesta Lodge can be seen in between the mature popular trees within its grounds.
7. The prevailing pattern of development of the surrounding area is drawn from Tavistock Avenue which is a wide and long street with properties arranged in a semi-circular form. As a result of this curvature, the properties along Tavistock Avenue benefit from narrow and deep rear gardens. Two-storey dwellings are the predominant house type within this area; which includes Nos 2 and 4 Leaf Way.
8. A single storey dwelling in this location would be out of character with the prevailing form of residential development locally in terms of siting, orientation, density and location. The garage building comprises a subservient outbuilding and has not been designed to be a principal dwelling in itself. Its scale does not reflect that of other dwellings in the surrounding area. It has a restricted plot size which has been achieved through the severance of the original garden to No 42. All of these factors would make the proposed studio dwelling out of character with the neighbouring properties, and it would appear as an incongruous feature in the area.
9. Nos 2 and 4 Leaf Way are orientated at 90 degrees to the existing garage with their front elevations facing the building. The proposed studio dwelling would be orientated at odds to Nos 2 and 4. It would be out of character with the immediate surroundings. As a dwelling it would turn its back towards No 42 and present a blank side elevation to Leaf Way as it runs from Tavistock Avenue. As such it would introduce an orientation of development out of character with its immediate surroundings. It would also lack any natural street frontage and have no clear association with Leaf Way.
10. The proposed boundary treatment fronting Leaf Way would be approximately 2 metres in height. This would increase the sense of enclosure and consequently reduces the openness that is currently experienced on this section of Leaf Way.

This reduction in openness would harm the character and appearance of the area.

11. The existing fence to the boundaries with Nos 40 and 42 and Nos 2 and 4 would be replaced with a 3 metre high fence. The scale of fencing would form a very prominent feature which would dominate the appeal site. Given the overall height of the existing garage is stated as being 3.48 metres, the proposed fencing would represent an overbearing form of boundary treatment in the context of the building and its surroundings. It would be higher than other fencing in the vicinity and consequently would compound the adverse impact of the development on the character and appearance of the area.
12. The appellant refers to other ad hoc residential development that in the locality. I do not, however, know the considerations that were taken into account by the Council in deciding to grant planning permission in these cases. In any case, I do not find any of these properties demonstrate comparable characteristics to the appeal proposal. Furthermore, the Council indicates that these developments were approved before the publication of the National Planning Policy Framework (the Framework). The Framework attaches importance to good design. The proposed studio dwelling would be sited in a prominent location and would not exhibit a high quality of design which reflects the prevalent character, layout and pattern of development in the surrounding area.
13. The functional design; subordinate nature of the building; its failure to respect the prevailing pattern of development; loss of openness; and the dominant boundary treatment would combine to have a harmful effect on the character and appearance of the surrounding area. It would not accord with Policies 69 and 70 of the City and District of St Albans District Local Plan Review 1994 (LPR). These policies, amongst other things, seek to ensure that all development will be of a high standard of design to reflect local distinctiveness and that the proposal respects the character of the surrounding area. The proposal would also not accord with the Framework which requires planning to secure high quality of design (paragraph 17); respond to local character (paragraph 58); and seek to promote or reinforce local distinctiveness (paragraph 60).

Living conditions of the occupiers of neighbouring properties

14. The existing timber fence of approximately 1.8 metres in height currently separates the appeal site from the front garden area of Nos 2 and 4 Leaf Way. The same height fencing provides the boundaries to the rear gardens of Nos 40 and 42 Tavistock Avenue. This would be replaced by a 3 metre high fence which would adversely affect the outlook from these neighbouring gardens. It would also lead to an unacceptable level of overshadowing to the gardens of Nos 40 and 42. Consequently there would be harm to the enjoyment and use of the occupiers' outside space.
15. The impact would be most noticeable for the occupiers of No 42 as their rear garden has been shortened to a depth of approximately 10 metres following the separation of the appeal site. Whilst the proposed dwelling would be a potential source of noise and disturbance, this would not be materially greater than the use of the building as a garage and associated parking area.

16. In conclusion, I find that the appeal proposal would harm the living conditions of the occupiers of the neighbouring properties I have referred to. It would conflict with Policies 69 and 70 of LPR, which, amongst other things, seek to ensure that all development will be of a high standard of design. The proposal would not accord with the Framework in relation to development contributing positively to making places better for people (paragraph 56) and a good standard of amenity (paragraph 17).

Living conditions of future occupiers

17. Approximately two thirds of the existing area of hard standing within the appeal site would be converted into a garden with the remaining area providing one car parking space and an area for bin storage. Another smaller area of garden would be created between the studio dwelling and the rear garden of No 42. Both garden areas would be enclosed by a 2 metre high fence to Leaf Way and a 3 metre high fence to the boundaries with Nos 2 and 4 Leaf Way, and Nos 40 and 42 Tavistock Avenue.
18. The proposed studio dwelling would have limited windows, all of which would be in close proximity to the proposed 3 metres high sections of fencing. This fencing would be overbearing thereby harming the outlook for future occupiers. This would result in unacceptable living conditions.
19. In terms of privacy between the proposed studio dwelling and Nos 40 and 42, the distance between windows is less than as set out in Policy 70 of the LPR. Given the proposed 3 metre high fencing and the positioning of the fence in relation to the windows of the proposed studio dwelling, I do not find that overlooking impacting on privacy from Nos 40 and 42 would occur.
20. According to the appeal forms the floor space for the studio dwelling is 39 square metres. The plans illustrate a combined kitchen and living area, an entrance hallway and a separate shower room with basin and WC. The design and access statement indicates that the proposed studio dwelling is intended to be a one bedroom-one person unit.
21. Even though the Council has no adopted policy on standards for internal space for housing, the 'Technical housing standards – nationally described space standard' (THS)¹ are a good indication of the amount of internal space required within dwellings to avoid harmful living conditions for the occupants. Consequently I give the THS significant weight within my determination of this appeal as a relevant material planning consideration.
22. According to the THS a one bedroom-one person flat with shower room requires 37 square metres of gross internal floor space. At 39 square metres, the appeal proposal would meet the standard.
23. I find that the proposal would result in harm to the living conditions for future occupiers in relation to outlook. No harm would result from privacy and internal floor space. Accordingly it would not meet the overall amenity aims of Policy 70 of the LPR. This policy, amongst other things, seeks to ensure new residential development has suitable living conditions.

¹ DCLG, March 2015

The Planning Balance and Conclusion

24. There is no dispute between the main parties that the Council is unable to demonstrate a five year supply of deliverable housing sites. Paragraph 49 of the Framework states that relevant policies for the supply of housing cannot be considered up to date if the local planning authority cannot demonstrate such a supply. Paragraph 14 sets out the presumption in favour of sustainable development. For decision making this means that where the development plan is absent, silent or relevant policies are out of date, planning permission will be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. Sustainable development is identified as having social, economic and environmental roles in the Framework.
25. The appeal proposal would be well connected to existing services and facilities and provide some social and economic benefits through contributing to the supply of smaller dwellings in the area. However, the harmful impacts of the development would significantly and demonstrably outweigh the limited benefits when assessed against national and local policies taken as a whole. Consequently the proposal is not sustainable development for which the Framework carries a presumption in favour. For this reason, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Rachael A Bust

INSPECTOR