
Appeal Decision

Site visit made on 14 November 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: 07 December 2017

Appeal Ref: APP/B1930/W/17/3179967

Land rear of 60 Tavistock Avenue, St Albans, Hertfordshire AL1 2NG

- 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 Kambiz Ossanlow against the decision of St Albans City & District Council.
 - The application Ref 5/17/110, dated 5 April 2017, was refused by notice dated 8 June 2017.
 - The development proposed is erection of detached dwelling in rear garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - the character and appearance of the site and surrounding area; and
 - the living conditions of the occupiers of neighbouring properties, Nos 3A and 5 Leaf Way, with particular regard to overlooking, privacy and sense of enclosure; in addition, overshadowing and light to No 3A Leaf Way.

Reasons

Character and appearance

3. The appeal site is located at the southern end of the rear garden of No. 60 Tavistock Avenue. The site currently includes a portion of the rear garden to No 60 together with a garage building incorporating a pedestrian access. Vehicular access to the garage is from a private road known as Leaf Way, which passes between Nos. 42 and 44 Tavistock Avenue and provides access to the rear of the properties fronting onto Tavistock Avenue and a handful of properties within Leaf Way itself. To the north lies No 3A Leaf Way, a 2-storey dwelling; and to the south is No 5 Leaf Way, a 2-storey multi-unit residential building.
4. The prevailing pattern of development within the area is drawn from Tavistock Avenue which is a wide and long residential street with properties arranged in a semi-circular form. As a result of this curvature, the 2-storey semi-detached properties along Tavistock Avenue benefit from narrow and deep rear gardens.

5. The character of Leaf Way is predominantly formed by its main purpose of providing access to the rear of the properties on Tavistock Avenue. Whilst I note that there has been some ad hoc residential development permitted within Leaf Way, I have not been provided with any substantive evidence to enable me to understand the background to why they were deemed acceptable by the Council. Although this ad hoc development has introduced some change to the character and appearance of the access road, I do not find that it can be considered to be an established pattern of development in its own right and one which competes with the prevailing pattern established by Tavistock Avenue. Leaf Way is predominantly a rear service road which has the feeling of a private space rather than residential public realm.
6. The appeal proposal would involve the demolition of the existing garage building and the construction of a 2-bedroom dwelling with integrated garage fronting onto Leaf Way. The main garden area would be provided at roof level as a consequence of the first floor being set back. Another small garden area is illustrated to the rear of the dwelling.
7. The proposed dwelling would fill the width of the plot such that no space would exist to either the front or the sides. Notwithstanding the proposed set back of the first floor, the disproportionate lack of space around the dwelling would emphasise its bulk and massing. The proposed siting would project the dwelling around 4 metres forward of No 3A Leaf Way.
8. Consequently, the siting, scale, bulk and massing would result in an unduly prominent dwelling and an overdevelopment of the site. It would be out of character with other properties on Leaf Way which sit more comfortably within their larger plots. Accordingly, I find that the proposal would harm the character and appearance of the site and the surrounding area.
9. The proposal would therefore conflict with Policies 69 and 70 of the St Albans District Local Plan Review 1994 (LPR). These policies seek, amongst other things, to ensure that all development will be of a high standard of design to reflect local distinctiveness and respect the character of the surrounding area. The appeal proposal would also fail to be supported by the Framework which advises that planning should secure high quality design (paragraph 17); respond to local character (paragraph 58) and seek to promote or reinforce local distinctiveness (paragraph 60).

Living conditions

10. No 3A is set-back from Leaf Way to provide a front garden area. No 3A is 2-storey with a set-back first floor element. The first floor front elevation has several large windows. The proposed roof top garden would provide the majority of the amenity space for the future occupiers of the dwelling. As a consequence of the siting of the proposed dwelling, a substantial proportion of the roof top garden would project beyond the front elevation of No 3A and be within less than 0.5 metres of No 3A.
11. As a consequence the future occupiers of the proposed dwelling would be able to see into the first floor windows of No 3A. This would lead to an unacceptable level of overlooking and would lead to a loss of their current levels of privacy. It would harm the living conditions of the occupiers of No 3A with regard to overlooking and privacy.

12. The elevation of No 5 Leaf Way facing the proposed dwelling has a number of windows at first floor and 2 dormer windows in the roof. Notwithstanding the separation distance and intervening sporadic vegetation, the future users of the rooftop garden would be at a height which would allow potential overlooking into the first floor windows of the units of No 5. It would not be as harmful as the overlooking which would occur with No 3A. However, the occupiers of No 5 would still be likely to experience an unacceptable reduction in their current levels of privacy.
13. I note the appellant's suggestion that the proposed roof garden would be enclosed with a fence, unlike the roof garden of No 3A. However, the style and height of the fence would be insufficient to mitigate the overlooking and loss of privacy. I agree with the Council that a higher fence would be likely to affect the living conditions of the future occupiers of the proposed dwelling by increasing the sense of enclosure.
14. The siting and juxtaposition of the proposed dwelling in relation to No 3A would give rise to an increased sense of enclosure for the occupiers of No 3A. Consequently, I find that this would also harm the living conditions of the occupiers of No 3A.
15. Given the separation distance between the proposed dwelling and No 5, I do not find that the occupiers of the units on the western elevation of No 5 would be likely to experience any increase in a sense of enclosure which would harm their living conditions.
16. As a consequence of the siting of the proposed dwelling further forwards and to the south of No 3A there would be some unacceptable overshadowing and corresponding reduction in the levels of light that would be experienced by the occupiers of No 3A.
17. I find that as a consequence of the siting and design of the proposed dwelling, it would harm the living conditions of the occupiers of neighbouring properties, Nos 3A and 5 Leaf Way, with particular regard to overlooking, privacy and sense of enclosure; and in addition, overshadowing and light to No 3A Leaf Way.
18. Accordingly, the proposal would conflict with Policy 70 of the St Albans District Local Plan Review 1994 (LPR). This policy seeks, amongst other things, development to be designed to provide suitable living conditions.

Other matters

19. I have had regard to the appellant's suggestion regarding the general housing need in towns and cities within close proximity to London. However, no evidence of such need has been provided to me.
20. I have had regard to the other matters raised by an interested party which are in addition to those concerns considered as part of the main issues above, including national space standards, car parking provision, vehicle turning and manoeuvring. Given that the appeal proposal fails on both main issues, it has not been necessary to reach a conclusion on these other matters.
21. The appellant suggests that the proposed dwelling is larger than those built in multi-unit developments. I have no substantive evidence before me which would enable a comparison to be made.

22. The appeal proposal indicates the provision of an integrated garage. I note that Policies 30 and 40 of the LPR require 2 spaces for a 2-bedroom dwelling. Whilst the proposal presents a theoretical shortfall in parking provision, I have no objection from the Highway Authority regarding the provision or the ability to manoeuvre in Leaf Way to use the integrated garage. I saw on my site visit, although a snapshot in time, that there were parking opportunities on Tavistock Avenue. The location of the appeal proposal would also allow access to alternative means of transport, such that the parking provision would be acceptable in this instance.

Conclusion

23. The appeal proposal would be well connected to existing services and facilities and provide some social and economic benefits through the contribution of a single, small dwelling 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 and 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