



Appeal Decision

Site visit made on 20 August 2019

by L J O'Brien BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11th October 2019.

Appeal Ref: APP/B1930/W/19/3229805

6 Broad Acre, Bricket Wood AL2 3RX

- 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 Marcus Grossman of Margo Properties against the decision of St Albans City & District Council.
 - The application Ref 5/19/0082, dated 13 January 2019, was refused by notice dated 1 April 2019.
 - The development proposed is construction of new three bedroom building with accommodation within the roof and associated landscaping and parking.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of No 6 Broad Acre with particular regard to privacy and No 18 Newlyn Close in respect of outlook and light.

Reasons

3. No 6 Broad Acre, the appeal site, is a single storey, semi-detached bungalow with a long rear garden which backs onto Newlyn Close. Broad Acre is a residential street comprising a number of similar properties set back from the road beyond front gardens. A large wooded area containing many mature trees provides a focal point at one end of the street. Similarly, Newlyn Close is characterised by modest semi-detached and detached properties with mature greenery surrounding. There are a number of trees protected by a Tree Preservation Order in the rear garden of No 6. These trees would be retained and included within the front garden of the new dwelling.
4. The proposal is to subdivide the rear garden of No 6 and construct a new three bedroom dwelling with accommodation within the roof. The proposed new dwelling would be accessed from, and front, Newlyn Close. The proposed building would be set well back from Newlyn Close, behind the front building line of No 18, with a large front garden area. The rear garden area would be limited in size and the proposed dwelling's rear elevation would be sited close to the new boundary with No 6 Broad Acre.
5. The dwelling would have a rear dormer directly looking over the rear garden and elevation of No 6. Guidance set out within the St Albans City and District Design and Layout of New Housing Design Advice Leaflet, 1998 (SPG) states

that a distance of 13.5m between a new dwelling and the rear boundary is required in the majority of new housing developments. In this case there would be only approximately 6.3m between the rear dormer and the rear boundary (with No 6) of the new dwelling which is significantly below the standard set out in the SPG.

6. The proximity of the proposed dwelling to the boundary with No 6 and the elevated position of the dormer window would result in significant and intrusive overlooking to that property and its garden area resulting in a harmful loss of privacy. As the rear dormer would be the only window serving bedroom three, obscure glazing would not be appropriate as it would lead to unsatisfactory living conditions for the future occupiers of the new dwelling.
7. The new dwelling would be situated close to the boundary with No 18 Newlyn Close and would have a higher ridge height than both No 6 Broad Acre and No 18. Due to its set back position within the site, the new dwelling would run along the boundary between the appeal site and the rear garden of No 18 for most of the length of the garden. Consequently, the proposal would appear as a dominant feature in the outlook from No 18 and would lead to an excessive sense of enclosure in the rear garden area. The proposed dwelling would appear oppressive, causing an unacceptable degree of harm to the living conditions of the occupiers of No 18 in respect of outlook.
8. The SPG states that in designing new development it is important to safeguard the daylight provision to existing nearby buildings. The importance of sunlight in garden areas is also highlighted. Due to its orientation, the proposed dwelling would block light reaching the rear of No 18 during the latter part of the day. As a result of its position on the site, the shadow cast by the proposed dwelling would cover almost the entirety of the rear garden of No 18. Whilst the large trees which are currently in situ already block light to a degree, the introduction of a building in this location would lead to overshadowing at the rear of No 18 to an unacceptable degree. This would be in conflict with the aims outlined in the SPG.
9. For the reasons outline above, I consider that the proposed dwelling would cause harm to the living conditions of the occupiers of No 6 Broad Acre having regard to privacy and No 18 Newlyn Close having regard to outlook and light. As such, the proposal would fail to accord with Saved Policy 70 of the City and District of St Albans District Local Plan Review, 1994 (LP). Amongst other things this policy seeks to ensure that development provides a tolerable level of visual privacy, is orientated so as to meet sunlight and daylight requirements and that the design of new housing development has regard to its setting and that the massing and siting of buildings creates attractive spaces of a human scale.
10. There would also be a failure to conform with the National Planning Policy Framework and guidance contained within the SPG which states that developments should create a high standard of amenity for existing and future users.

Other Matters

11. The proposed dwelling would be of a broadly similar design to many others in the vicinity and would reflect features which are typical of other buildings in the area. Accordingly, the proposed dwelling would not appear out of keeping with

the character and appearance of the area and I find no conflict with Saved Policy 69 of the LP, which promotes high quality design, in this regard.

12. A number of nearby residents raise concerns regarding the effect of the proposal on the existing trees. In view of my conclusions on the main issues there is no need for me to address these in my appeal decision.
13. I acknowledge that the scheme has been amended from that previously refused by the Council and dismissed at appeal with the aim of overcoming the previous reasons for refusal. However, whilst these amendments may have mitigated some of the harm identified previously, they are not sufficient to make the scheme acceptable in planning terms.
14. There is no dispute that the Council does not currently have a five year housing land supply. A presumption therefore exists in favour of granting planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. The addition of a new dwelling which would contribute towards the housing supply in the area would undoubtedly be a benefit of the scheme. I have however, no compelling evidence outlining any further benefits which, combined with the benefits associated with an additional dwelling, would outweigh the harm I have identified above.
15. I have given careful regard to all of the above considerations. However, none are sufficient to dissuade me from the conclusion I have reached regarding the harm to living conditions of the occupiers of neighbouring properties.

Conclusion

16. The proposed development would fail to accord with the development plan and the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, for the reasons given above and having considered all other matters raised I conclude that the appeal should fail.

L J O'Brien

INSPECTOR