

Appeal Decision

Site visit made on 24 September 2019

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th November 2019

Appeal Ref: APP/J0405/W/19/3233098
3 Victoria Street, Aylesbury HP20 1LZ

- 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 Kevin Morand against the decision of Aylesbury Vale District Council.
 - The application Ref 18/04182/APP, dated 19 November 2018, was refused by notice dated 16 January 2019.
 - The development proposed is conversion of existing garages to form a single dwelling house.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed development on:
 - The character and appearance of the surrounding area;
 - The living conditions of the intended future occupants; and
 - The living conditions of the occupiers of No 1 and No 3 Victoria Street, with particular reference to privacy and overlooking.

Reasons

Character and appearance

3. The appeal site is located on Victoria Street. It is a predominantly residential area, comprising of two-storey terraced properties with linear rear gardens, each of which connect to a rear service road. Several properties along Victoria Road have a garage or outbuilding erected at the bottom of their garden and adjacent to the rear service road. The dwellings front onto the road and follow a broadly similar line which gives definition to the pattern of built development in this part of the settlement.
4. The 2 adjoined double garages which form the site are located to the rear of No 1 and No 3 Victoria Street. There is also a further garage next to the site which is not part of the proposal. The site is accessed by an access road between No 11 and No 15. There is a metal railing along the access road which provides a walkway for pedestrians to access garages and the rear of the properties. The access road continues alongside the rear of the properties No 11 to No 1.

Opposite the garages there is a wooden fence which separates the site from the adjacent supermarket car park.

5. The proposed design would make limited external changes to the existing appearance of the 2 garages. As such the visual appearance would have a neutral effect on the site and its surroundings.
6. The proposal would result in a single storey dwelling with a small garden and limited outdoor space around it. Given the predominant development pattern of rows of two storey terraced properties with services lanes to the rear, I consider that the proposed dwelling within a small backland site, would not be in keeping with its context. Consequently, I consider the proposal would be out of character with the established pattern of development in the area.
7. The Council has suggested that the proposals would set a precedent for other backland development. Whilst I note the Council's concern about precedent, were this proposal to be approved, from my site visit I did not see any other opportunities along this part of Victoria Street, which could give rise to a similar proposal coming forward. Thus, the proposal would not set a precedent in this particular case. In any event, each case should be assessed on its own planning merits.
8. Consequently, the proposed development would harm the character and appearance of the surrounding area. Therefore, it would be contrary to Policy GP35 of the Aylesbury Vale District Local Plan (AVDLP) (2004). This policy seeks to ensure that new development respects and complements the existing characteristics and context of the site and its surroundings.

Living conditions of the intended future occupants

9. The appeal site is located at the bottom of the gardens of No 1 and No 3 Victoria Street, therefore, it has a close relationship with these properties. Due to the positioning of these properties, there would be direct views from the first-floor windows of the existing dwellings, to the bedrooms of the proposed dwelling and its rear outdoor space. Thus, intended future occupants would be overlooked by the occupants of Nos 1 and 3, and it would harm their privacy. The Council suggests that it would be inappropriate to condition a boundary treatment high enough to prevent direct overlooking of the proposed site. I agree that the implementation of such a scheme would dominate the outlook from the dwellings.
10. The proposed development would only have a small garden area to the front at approximately 45 square metres and a small yard area to the rear. Whilst I acknowledge that the front garden is not overlooked, I consider that the area of outdoor space would not be of sufficient size for the proposed dwelling, when compared to the existing gardens within the vicinity of the site. The size of the garden is a characteristic in the area and allows for private amenity space. This is important since the 2 garages are quite substantial and have already absorbed a good proportion of the rear garden of Nos 1 and 3. The appellant has stated that outdoor space is representative for a 2-bedroom dwelling, however, I do not have any substantive evidence before me to support this.
11. The Council has suggested that the proposed dwelling would lack a frontage on to the public highway. Whilst this is true, I do not agree that this in itself would lead to unacceptable living conditions. The proposed access in between Nos 11

and 15 Victoria Street, although not specifically signed as such, is sufficiently visible from Victoria Street such that it would not be unduly difficult for future occupiers, their visitors, deliveries or other service vehicles to access. There are 2 parking spaces to the front of the proposed development, therefore, future occupants could reach the property, as could taxis and deliveries.

12. The Council's advice note for refuse bins¹ states that residents should not have to pull/push bins or carry waste for more than 25 metres. It also states that collection crews should not have to push/pull 2 wheeled containers or carry individual waste containers for more than 15 metres. The appellant has suggested that a similar scheme² was approved that exceeded these distances. Be that as it may, I have not been presented with the planning circumstances that led to that scheme being acceptable. Whilst the proposal would exceed the recommended distances, I do not consider that the distances are so considerable that they would cause significant harm to the living conditions of future occupants, as such it is not determinative in my decision.
13. The appellant has provided examples of other approved developments³. However, I do not have the full details of these schemes before me, therefore, I cannot make any form of meaningful comparison with this appeal proposal. Moreover, development in other locations does not automatically justify approving this appeal proposal. I have assessed the proposal on its own merits, having regard to the specific context of the site and the policy framework currently in place.
14. For the above reasons I find the proposed development would be harmful to the living conditions of the intended future occupants. Consequently, it would be contrary to Policy GP8 of the AVDLP (2004) and paragraph 127 of the National Planning Policy Framework (the Framework). This policy and paragraph 127 of the Framework seek to ensure that new development is high quality and does not harm the living conditions of residents.

Living conditions of the occupiers of No 1 and No 3 Victoria Street

15. The proposed dwelling would adjoin and face onto the rear gardens of No 1 and No 3. Although the proposed dwelling would have a door and a window facing towards No 1 and No 3, there would be a fence of approximately 2 metres high separating the properties. Whilst there would be views from the bedrooms and outdoor space of the proposed dwelling towards the first-floor windows of No 1 and No 3, the positioning of the proposal would not lead to direct views into the bedrooms of No 1 and No 3.
16. For the above reasons I find the proposed development would be acceptable in terms of the effect of the proposed development on the living conditions of No 1 and No 3 Victoria Street, with particular reference to privacy and overlooking. Consequently, the site accords with Policy GP8 of the AVDLP (2004). This policy seeks to ensure that new development does not harm the living conditions of nearby residents.

¹ Aylesbury Vale District Council Recycling and Waste: Advice note for developers (2015)

² Planning permission reference 18/04218/APP

³ Planning permission references 89/00147/APP; 04/02961/APP; and 18/04218/APP

Other Matters

17. The appellant has suggested that the proposal would be a sustainable form of development due to its access to facilities and services, as well as the proposal providing a house for the local housing needs. Whilst I acknowledge these benefits, they do not outweigh the harm that I have identified above.

Conclusion

18. For the reasons set out above, I conclude that the appeal should be dismissed.

D Peppitt

INSPECTOR