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## Appeal Decision

Site visit made on 10 March 2020

**by J Bowyer BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 17<sup>th</sup> March 2020**

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**Appeal Ref: APP/B1930/W/19/3243593**

**24 Pemberton Close, St Albans, Hertfordshire AL1 2JS**

- 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 Atik Choudhury against the decision of St Albans City & District Council.
  - The application Ref 5/19/0426, dated 11 February 2019, was refused by notice dated 26 June 2019.
  - The development proposed is described as 'ancillary accommodation and all associated works at 24 Pemberton Close'.
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### Decision

1. The appeal is allowed and planning permission is granted for an ancillary accommodation outbuilding at 24 Pemberton Close, St Albans, Hertfordshire AL1 2JS in accordance with the terms of the application reference 5/19/0426, dated 11 February 2019, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: TQRQM19042140439285 (Site Location Plan), 970- 101 (Proposed Floor Plan, Roof Plan and Elevations) and 970- 103 (Proposed Block Plan).
  - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall be as shown on plan no. 970- 101 and specified at section 7 of the application form
  - 4) The building hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the dwelling known as 24 Pemberton Close, St Albans.

### Procedural Matters

2. The Council altered the description of application 5/19/0426 to read 'ancillary accommodation outbuilding'. This is also the description used by the appellant on the appeal form. As that provides a more succinct and accurate description of the proposal, I have used it in my formal decision above.
3. The Council's reason for refusal of permission refers to access to the proposed development via a 'Right of Way'. However, both main parties have indicated that the footpath to the side of the dwelling on the appeal site is not formally designated as a right of way. I have considered the appeal on that basis.

## **Main Issue**

4. The main issue in this appeal, having regard to whether or not the proposed outbuilding would be ancillary to the host dwelling, is the effect of the development on the character and appearance of the area.

## **Reasons**

5. Pemberton Close is a residential cul-de-sac characterised by semi-detached buildings of similar appearance which are positioned on a relatively consistent building line facing the street. Many include single-storey sections to their front and/or side. Outbuildings of varied designs and scale are also visible from the street scene or nearby footpaths within some of the rear gardens to dwellings.
6. The appeal site is located at the head of Pemberton Close and includes a semi-detached building accommodating 2 maisonettes known as 24 and 26 Pemberton Close. No 24 is accessed via a door to the front of the building which faces onto an area used as parking and which the appellant indicates serves only the appeal dwelling. The entrance to No 26 is located behind a gate to the side of the building and is reached by a path that runs along the side of the frontage parking. The gate also enables access to the rear gardens serving both Nos 24 and 26.
7. The proposed outbuilding would comprise a bedroom, bathroom and living room. The appellant advises that it would provide ancillary accommodation which would be used by relatives visiting the occupiers of No 24.
8. Saved Policy 12 of the City and District of St Albans District Local Plan Review 1994 (DLPR) outlines that accommodation for relatives, dependents or staff will normally be permitted within the curtilage of a dwelling subject to certain criteria. These include that the accommodation forms an extension to the main dwelling, and that primary pedestrian access is through the main dwelling, although the Policy states that an independent garden/secondary access may be permitted.
9. The proposed outbuilding would not be attached to the appeal dwelling. However, it would sit within the garden serving No 24 with no private garden of its own, and there is no proposal to form a separate curtilage around the building. While I acknowledge that the building would be positioned towards the rear boundary of the appeal site, the garden is not of significant depth and so the outbuilding would still be in close proximity to the appeal dwelling. Together with the orientation of the outbuilding towards the appeal dwelling with facing windows, it would therefore retain a close physical relationship with the host dwelling.
10. In addition, no kitchen is indicated within the outbuilding and I have no reason to doubt the appellant's statement that meals would be taken in the appeal dwelling. Accordingly, the outbuilding would be reliant on No 24, including for cooking facilities, resulting in a close functional relationship. There would further be no separate parking provision. Given the degree of interaction together with the physical relationship with the appeal dwelling, it would not be easy to occupy the outbuilding as a separate dwelling. In my view, the development would therefore in effect form an extension to No 24.
11. I note the Council's concerns that the outbuilding could be accessed via the existing side access from Pemberton Close which also serves the entrance to

- No 26. However, the outbuilding would also be accessible from the door to the rear of No 24 onto the garden, and saved Policy 12 of the DLPR accepts that an independent garden/secondary access may be permitted. Given the close physical and functional relationship between the appeal dwelling and the proposed outbuilding, I am not persuaded that the side access would as a matter of course be used as the main access to the outbuilding. In this context, I see no reason that the availability of a potential alternative access to the outbuilding would be unacceptable or would be likely to result in occupation of the outbuilding as a separate self-contained dwelling to No 24.
12. Moreover, the use of the outbuilding could be restricted to one ancillary to the appeal dwelling by means of an appropriately worded condition and indeed, such an approach is advanced by saved Policy 12 of the DLPR. Subject to this condition, I am satisfied that the outbuilding would remain ancillary to No 24.
13. The Council have also referred to the stipulation within DLPR saved Policy 12 that development of a physically separate new dwelling will not normally be permitted unless it complies with Policy 70. However, I have found that the development would not be a separate dwelling and so Policy 70 would not obviously apply here.
14. I note that the proposed outbuilding would be fairly large. However, owing to its single storey height, the intervening buildings, boundary treatment and vegetation, as well as its position to the rear of the appeal site, the development would not be clearly seen from public vantage points in surrounding streets. While there would be views from surrounding residential properties, a significant part of the site would remain as undeveloped open garden. The design of the building with a flat roof and relatively limited fenestration would give it a functional appearance in contrast to the traditional domestic appearance of Nos 24 and 26, and together with its modest height, it would not dominate the site or be disproportionate to the existing building. Moreover, outbuildings of varying scale and design are apparent in the surrounding area and so the development would not be an exceptional or incongruous feature.
15. For these reasons, I conclude that the development would be ancillary to the host dwelling and would not be harmful to the wider character or appearance of the area. Accordingly, I find no conflict with saved Policy 12 of the DLPR. The development would also accord with saved Policy 72 of the DLPR which requires that extensions to dwellings and other buildings in residential areas relate to the scale, character and appearance of the street.

### **Other Matters**

16. Owing to the scale of the outbuilding and the relationship with neighbouring dwellings, the development would not cause any significant loss of privacy for the occupiers of neighbouring houses. The proposal does not include removal of existing hedging on the site, and I have no firm evidence that the development would be likely to result in noise or disturbance to neighbouring occupiers or in increased rates of burglary.

### **Conditions and Conclusion**

17. I have considered the conditions suggested by the Council against the tests in the National Planning Policy Framework. In addition to a condition restricting

use of the outbuilding to one ancillary to No 24 and the standard time limit condition, a condition specifying the approved plans is necessary for the avoidance of doubt and in the interest of certainty. A condition specifying the external materials is necessary to ensure a satisfactory appearance, although for the sake of clarity and certainty I have amended the Council's suggested condition to refer to the use of materials as they are shown on the submitted plans and specified on the application form.

18. For the reasons given above, and subject to these conditions, I conclude that the appeal should be allowed.

*J Bowyer*

INSPECTOR