
Appeal Decision

Site visit made on 7 January 2020

by S Shapland BSc (Hons) MSc CMILT MCIHT

an Inspector appointed by the Secretary of State

Decision date: 26 March 2020

Appeal Ref: APP/J1915/W/19/3237941

24 Ashdale, Bishops Stortford, Hertfordshire CM23 4EA

- 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 David Milne (Rivertree Developments) against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/1341/FUL, dated 21 June 2019, was refused by notice dated 30 August 2019.
 - The development proposed is construction of new 2 bedroom end of terrace house .
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Decision

1. The appeal is dismissed.

Procedural Matters

2. On the 13th February 2020 the Government published the 2019 Housing Delivery Test (HDT) results, which updated the HDT figures for East Hertfordshire District Council. Both parties have been provided with the opportunity to comment on these changes, and I have determined the appeal on this basis.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers at No.48 The Ridings, with particular regard to outlook.

Reasons

4. The appeal site forms the side garden of No.24 Ashdale, and is located within an existing residential area of Bishops Stortford. The appeal site is situated at the end of a row of terraces of two storey dwellings, and is within a cul-de-sac. The appeal proposal is for the construction of a new two-bedroom end of terrace house, and would include two car parking spaces to the front of the site.
5. The neighbouring property of No.48 The Ridings due to its orientation faces the appeal site. The appeal proposal would bring a large flank wall within close proximity to the boundary of this neighbouring property. The garden of No.48 is not overly deep, and therefore the rear of this property would not have a large separation distance to the appeal proposal. During my site visit I observed that No.48 has a number of habitable rooms at the rear of the property which would look directly at this flank wall. This includes a kitchen and lounge window which are at the rear of the property on the ground floor.

6. Given the relatively small separation distance between the rear of the property and the appeal site, the proposal would appear overly dominant to the occupiers of this property, particularly when viewed from the rear garden and rooms which face the appeal proposal. Whilst the current outlook is one of a flank wall, the proposal would bring development much closer to the boundary. This would result in a greater feeling of enclosure within this rear garden and have an overbearing outlook for the occupiers. Accordingly, this would harm their living conditions in respect of outlook.
7. The occupiers of No.48 have raised concerns that the appeal proposal would reduce the level of sunlight which would reach the rear two habitable rooms. The appellant has produced a daylight and sunlight assessment¹ which considers the impact of the proposal on the daylight of the property. The results of that assessment demonstrate that the proposal would reduce the level of sunlight to No.48, however the amount of reduction is slight and unlikely to be noticeable. However, this does not alter that the proposal would appear overly dominant to the occupiers of this property.
8. Consequently, I find that the proposal would harm the living conditions of neighbouring occupiers at No.48 The Ridings, with particular regard to outlook. It therefore conflicts with policy DES4 of the East Hertfordshire District Plan 2018, which seeks amongst other things, that development does not have a detrimental impact on the amenity of occupiers of neighbouring properties. The Council's reason for refusal also makes reference to the National Planning Policy Framework (the Framework). Whilst I have not been directed to specific areas of conflict, I find that it would fail to accord with its objectives towards good design.

Other Matters

9. The appeal site is located within an existing built up area, and is within easy access to a number of local amenities and facilities. This includes public transport links, schools, retail and sport facilities, which weigh in favour of the appeal. I note that the Framework is generally supportive of the development of smaller windfall sites such as this, and paragraph 122 states that planning decisions should support development that makes efficient use of land. However, the provision of a single house in this location would not outweigh the significant harm that I have identified above in respect of living conditions to neighbouring occupiers.
10. The appellant has indicated that the Council has demonstrated a pattern of under delivery of housing against the number of homes required, and thus the presumption in favour of sustainable development applies. The Council has not commented on this matter. The latest HDT figures demonstrate the Council has delivered 2,121 dwellings, from a requirement of 2,418. This represents approximately 88% of its need. Footnote 7 of the Framework states that paragraph 11 d) is triggered in circumstances where the HDT indicates that the delivery of housing has been substantially below the housing requirement over the past three years. The phrase "substantially below" is defined in footnote 7 as "less than 75%" of the housing requirement. However, that 75% figure only applies from November 2020. Transitional provisions in Framework paragraph 215 make it clear that the applicable figure from November 2019 to November 2020 is 45%.

¹ Daylight and Sunlight Assessment Brooks Development Practice Ltd 15/03/19

11. Therefore, under the transitional arrangements, I do not consider that paragraph 11d of the Framework has been triggered in this instance.

Conclusions

12. For the reasons given above the appeal is dismissed.

S Shapland

INSPECTOR