



Appeal Decision

Site Visit made on 8 December 2020

by Elaine Benson BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

Appeal Ref: APP/B1930/D/20/3255297

20 Drakes Drive, St Albans AL1 5AF

- 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 L Bridge against the decision of St Albans City Council.
 - The application Ref 5/2019/3118, dated 11 December 2019, was refused by notice dated 12 May 2020.
 - The development proposed is first floor rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for first floor rear extension at 20 Drakes Drive, St Albans AL1 5AF in accordance with the terms of the application, Ref 5/2019/3118, dated 11 December 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: SP/1 and SHELA-19-1a.
 - 3) The external surfaces of the development hereby permitted shall be constructed only of materials, the type and colour of which match exactly those of the existing building.

Main Issue

2. The main issue is the effect of the appeal proposal on the living conditions of the occupiers of 22 Drakes Drive (No 22).

Reasons

3. It is proposed to erect a first-floor above an existing single-storey rear extension. It would extend some 3m from the main rear elevation and its side wall would be close to the boundary with No 22.
4. Saved Policy 72 of the St Albans District Local Plan Review 1994 relates to extensions in residential areas. Among other things it requires consideration of the effect of proposals on adjoining properties. There are no direct references to first floor extensions as is proposed in this appeal. Therefore, as the proposal is to extend upwards above a single-storey extension, it is reasonable to consider the policy requirements in respect of two-storey rear extensions.
5. Criterion (ix) of Policy 72 indicates that such extensions 'shall not normally intrude into a 45 degree visibility zone of a neighbour's ground floor windows'. As there are existing ground floor rear extensions to both properties and no

intrusion into the specified visibility zone, this criterion would be satisfied. There is detailed evidence with this appeal relating to the application of the British Research Establishment's (BRE) '45-degree test' with regard to No 22's first floor rear bedroom window. The appellant and the Council officer's report agree that the proposal fails this test in respect of the plan view. However, as it would comply in terms of its elevational assessment it would pass the overall BRE test. This evidence has not been disputed at appeal.

6. This rear first floor window to No 22 would have a 3m deep extension to each side as a result of the proposed extension and No 22's own existing extension. I have considered whether there would be a tunnelling effect and the impact on outlook. I am satisfied by the evidence and my observations at the site visit that the light levels and outlook would not be harmed to any significant degree by the extension, even though the room is used as a children's bedroom and playroom. There would be no unacceptable overlooking in excess of what currently exists as there are already windows in the upper floor rear elevation of No 20. The overlooking of neighbouring gardens would be no greater than is commonly found in urban areas. Furthermore, having had regard to the orientation of the appeal property and its neighbours and all of the foregoing considerations, the evidence is sufficient to demonstrate that there would be no unacceptable overshadowing or other harm to light levels or general amenities.
7. The case officer's recommended approval of the proposed development was overturned by the planning committee. There is no committee minute or other evidence identifying the factors that led to the decision to refuse planning permission. Based upon the evidence before me I conclude that the first-floor rear extension, by reason of its depth and proximity to the first-floor rear room of No 22, would not result in a tunnelling effect or have an oppressive and overbearing impact upon the living conditions of the neighbouring occupiers. For these reasons the proposal would not be contrary to Policy 72.
8. In respect of other matters raised, the Council does not object to the design of the extension or its impact on the character of the surrounding area. There are no reasons to disagree.

Conditions

9. For the avoidance of doubt and in the interests of proper planning I have imposed a condition requiring the development to accord with the approved drawings. It is necessary to impose a condition requiring the use of matching materials in the interests of visual amenity.

Conclusion

10. For the reasons set out and having had regard to all other matters raised, the appeal is allowed.

Elaine Benson

INSPECTOR