



Appeal Decision

Site visit made on 28 January 2021

by Chris Couper BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2021

Appeal Ref: APP/B1930/D/20/3262618

45 Marshals Drive, St Albans AL1 4RD

- 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 and Mrs J Foley against the decision of St Albans City and District Council.
 - The application Ref 5/20/1222, dated 4 June 2020, was refused by notice dated 25 September 2020.
 - The development proposed is a part single, part two storey rear extension, an extension to the existing front porch, an extension of a loft conversion to habitable accommodation with front and rear dormer window and alterations to openings.
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Decision

1. The appeal is allowed and planning permission is granted for a part single, part two storey rear extension, an extension to the existing front porch, an extension of a loft conversion to habitable accommodation with front and rear dormer window, and alterations to openings at 45 Marshals Drive, St Albans AL1 4RD in accordance with the terms of the application Ref 5/20/1222, dated 4 June 2020 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: OS site plan at 1:1250 scale, block and roof plans at 1:200 scale, and drawing nos. JF 2020/1, JF 2020/2, JF 2020/3 Rev A, and JF 2020/4 Rev B.
 - 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Application for costs

2. An application for costs was made by Mr and Mrs J Foley against St Albans City and District Council. This application will be the subject of a separate decision.

Background and Procedural Matters

3. The scheme follows the refusal of an identical previous planning application (Ref: 5/2020/0553) ('the previous scheme'), but this one submitted with a Daylight and Outlook Report ('DOR'). I have taken the description of the proposed development from the application form, other than the reference to the resubmission, as that is not an act of development.

4. Whilst interested parties have referred to the emerging St Albans City and District Local Plan 2020-2036, as it does not form part of the development plan, I have given its policies very limited weight in my decision. That said, with regards to the main issue in this appeal, the broad objective of its Policy L24 of achieving and/or maintaining good access to daylight and sunlight broadly reflects a similar stance contained within Policy 72 of the adopted City and District of St Albans District Local Plan Review (1994) ('SADLPR').

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of neighbouring occupiers, with particular regards to outlook.

Reasons

Living conditions

6. The proposed single storey rear extension containing a study would be attached to a part of 45 Marshals Drive ('No 45'), which would be converted to a store/gym. This extension would be set in only marginally from the boundary with 47 Marshals Drive ('No 47'), and it would extend beyond that property's rear face.
7. However, that part of No 47 adjacent to the boundary comprises a garage/store and does not contain any rear facing windows. The nearest habitable rooms at No 47, including its conservatory, are set significantly further from the boundary.
8. Additionally, the study would have a roof which would slope away from the boundary, with a flat section behind. Its overall height and scale would be very modest. The principal outlook from No 47's conservatory and from the room above it would continue to be down that property's own garden. Consequently, whilst No 47 is at a slightly lower level compared to the appeal site, and the proposed single storey extension would be visible from those rooms, it would not result in a significant overbearing impact within them.
9. No 47 has a large garden, parts of which are a significant distance from the proposed development. Consequently, and given the limited scale of this part of the scheme, it would not have a significant overbearing impact on the amenity value of its outdoor space.
10. The two storey rear extension, with a second floor in the roof, would also project beyond No 47's rear face. However, this part of the proposal would be set well in from the boundary with that property and equally far, or further, from the boundary with 43 Marshals Drive ('No 43'), which sits on slightly higher ground. Whilst these parts of the proposal would be taller and bulkier than the single storey elements, given their location they would not significantly harm the outlook from the principal elevations of those adjacent properties, nor have a significant overbearing impact from their rear outdoor spaces.
11. The outlook from the scheme's new main habitable room windows would be principally down the host property's own garden.
12. The scope of the DOR was limited to the impact of the single storey rear extension as it was that element that the Council found unacceptable in the

- previous scheme. The DOR found that there would not be a noticeable loss of light to No 47.
13. However, the representation from Contour Planning notes that only one reference point on No 47's conservatory was used, and that it found that the vertical sky component would fall short of the BRE guidance for good daylight. Fig H in the Council's Extensions in Residential Areas Design Guide is also referred to, although as that illustration is without dimensions or a north point, it is of limited assistance.
 14. For my part, I note that No 47's conservatory is glazed on three sides and that it also has a clear roof. It lies broadly to the east and south-east of the proposed development.
 15. Having regard to the siting of the proposed development relative to adjacent properties, its form and its maximum height which is similar to the existing dwelling, boundary features and the sun's trajectory, I am satisfied that the scheme would not result in a significant loss of light to, or overshadowing of, No 43 and No 47.
 16. Summing up on this issue, whilst having regard to the cumulative impacts of this proposal and previous development, the scheme would not impact the living conditions in either of these adjacent properties to a harmful degree. As other properties are further from the site, the impact on those occupiers would be less.
 17. Amongst other things, SADLPR Policy 72 states at part (viii) that single storey rear extensions 'shall not normally' extend more than 3 meters rearward along a party boundary. Whilst this scheme would exceed that, the particular context here is such that it would not significantly harm the neighbouring occupants' amenities. Having regard to its part (ix), I have no cogent reason to disagree with the appellants that no part of the proposed two storey rear extension would intrude into a 45 degree visibility zone of the neighbours' rear-facing ground floor windows.
 18. For the above reasons, the scheme would not conflict with SADLPR Policy 72's stance that extensions shall not result in the light, privacy or amenity of adjoining properties being unacceptably harmed. That approach is consistent with the requirement in the National Planning Policy Framework ('Framework') for development to ensure a high standard of amenity – and with which the scheme would also comply.

Other matters

19. The proposal would add considerably to the scale of the already extended host property. However, Marshals Drive is characterised by many substantial detached dwellings of an individual design, set within spacious plots; the nearby dwelling at No 41 being particularly substantial. Although, as a result of this scheme the host would project further to the rear than its immediate neighbours, some other properties in the area have rearward projections.
20. The scheme would be faced with matching materials, and in the above context, the extensions would not appear disproportionately large or domineering. They would not harm the character and appearance of the host property or the area.

21. The neighbours at No 47 refer to the absence of an assessment of the scheme's impact on trees, particularly a Holly and a Rowan on the boundary. However, from the evidence before me, and that of my visit, I am not persuaded that any trees which make a significant contribution to the visual amenity of the area would be adversely impacted.
22. The Council considered that the application was accompanied by sufficient information to be validated and determined. Having regard to its development plan policies and to national validation requirements, I agree.

Conditions and Conclusion

23. I have considered the Council's suggested conditions against the Framework's tests. I have imposed the standard time limit condition and, in the interests of certainty, a condition requiring that the development be carried out in accordance with the approved plans.
24. In the interests of the character and appearance of the host property and the area, a matching materials condition is also necessary.
25. The Council suggested a condition requiring that the side facing windows and rooflights at first floor and above be obscure glazed and non-opening below 1.7 metres. However, I note that three proposed first floor windows would serve a shower room and en-suites. There is already a side facing window in what would become bedroom 4. The proposed second floor rooflights are depicted high on the roof, one also serving an en-suite. Consequently, even if clear glazed and opening, I am not persuaded that the proposed new windows would give rise to a significant loss of privacy to the adjacent occupiers.
26. Turning to the Council's suggested condition regarding the impact on trees, there is a large tree to the front of No 45, and other trees and landscaping particularly around the boundary with No 47. However, I am not persuaded that significant trees would be impacted by the proposal. Moreover, as the Council's wording does not specify which trees would be covered, the condition would not meet the tests of precision and enforceability. I have not therefore imposed it.
27. For the above reasons, the scheme would not impact the living conditions in the adjacent properties to a harmful degree. Consequently, and having regard to all other matters raised, including all representations by interested parties, the appeal is allowed.

Chris Couper

INSPECTOR