



Appeal Decision

Site Visit made on 23 March 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th April 2021

Appeal Ref: APP/B1930/W/20/3263271

Land rear of 213 The Ridgeway, ST. ALBANS, AL4 9XG

- 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 Tony Jourdan against the decision of St Albans City & District Council.
- The application Ref 5/19/3260, dated 23 December 2019, was refused by notice dated 18 May 2020.
- The development proposed is erection of a detached dwelling.

Decision

1. The appeal is allowed and planning permission is granted for erection of a detached dwelling at Land rear of 213 The Ridgeway, ST. ALBANS, AL4 9XG in accordance with the terms of the application, Ref 5/19/3260, dated 23 December 2019, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. On the 19th January 2021, the Government published the 2020 Housing Delivery Test (HDT) results. The HDT results show that St Albans City & District Council has delivered 63% of its housing requirement over the latest 3-year period. Consequently, the presumption in favour of sustainable development contained within paragraph 11 d) of the National Planning Policy Framework (the Framework) would be engaged. As the Council has already acknowledged that they cannot demonstrate a 5 year housing land supply I have not sought further views from the parties on this matter.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the area, with particular regard to the trees that are protected by Tree Preservation Order; and
 - the living conditions of future occupants, with particular regard to sunlight and daylight.

Reasons

Character and appearance

4. The site is located to the rear of 213 The Ridgeway, having formerly been part of that property's rear garden. The site is accessed from Springwood Walk, a residential cul-de-sac which is characterised by two storey dwellings evenly spaced in a linear pattern, which provides a consistency to the built form which

contributes to the pleasant suburban character. The site is subject to a Tree Preservation Order, which extends to areas beyond the appeal site. The existing trees contribute to the pleasant and verdant setting of the appeal site, which contributes to its role as a transition between the two separate developments of Springwood Walk and The Ridgeway.

5. The TPO was served in 1987, and since that time the appeal site has changed in character from a wooded area to a domestic garden, and a number of trees have been removed from the site as part of works granted by the Council in 2014/15. At the time of my visit further works had been carried out to the trees, which would appear to be in relation to the approved works under TP/2020/032. Those trees that remain have an upright form and the area has the appearance of a residential garden, with some outbuildings and scattered trees set within a lawn.
6. The proposed dwelling would be located to the rear of the site, broadly in line with the footprint of the partly constructed outbuilding which was visible at my visit. The dwelling would be rectangular in form and would follow the siting of the neighbouring dwelling, No 17, but would have an increased ridge height due to the inclusion of first floor accommodation within the roof. The siting of the dwelling to the rear of the site would be partially screened by the existing trees within the frontage of the site and would be seen within the context of the existing two storey dwelling, 213 The Ridgeway which is visible from within Springwood Walk.
7. The proposed height would lead to the dwelling being taller than No 17, however it would be lower than the two storey development to the front of the appeal site. As a result of the presence of other two storey development both within Springwood Walk and behind the appeal site, I consider that the overall height of the proposed dwelling would not appear overbearing or visually prominent within the street scene.
8. Having regard to the general character of the area with its range of dwelling styles and heights, I consider that whilst the proposal would be both wider and taller than No 17, the dwelling would contribute to the overall character of the area and would be appropriate within the street scene.
9. The submitted tree report has identified that there will be incursions within the root protection areas and canopy spreads of retained trees as part of the development. These include the use of the existing site access and construction activity (pedestrian movements or the erection of scaffolding). The report does identify mitigation measures that could be put in place to minimise the risks from the development, including the use of Tree Protection Fencing and Ground Protection Measures.
10. The Council has stated that they are concerned whether the scheme can be carried out successfully without compromising the trees, in particular the space for construction activity. However, the evidence before me indicates that if these mitigation measures were properly adhered to during the construction of the dwelling then the risk to the trees would be minimal. The effect on trees from the proposals would therefore be acceptable given the proposed site layout and conditions and providing that the Arboricultural Method Statement (AMS) is implemented.

11. I have had regard to the previous appeal¹ and I am satisfied that the design of the dwelling proposed was sufficiently different from that before me, in particular with the removal of the protruding front section, that it is possible for me to come to a different conclusion with regard to the impact on the character and appearance of the area. Also, the Inspector noted that the removal and coppicing of the trees would increase the prominence of the proposed property, however, these works have now already been permitted and carried out. I consider that this has had the effect of changing the overall character of the site as I have outlined above.
12. As I have set out above the proposed development is compatible with its surroundings and I do not consider there will be any material harm caused to the wider landscape and the risk from the development to the long term health and viability of the trees is adequately mitigated. I conclude that the proposed dwelling would not result in harm to the character and appearance of the area and the development would comply with Policies 69 and 70 of the St Albans District Local Plan 1994 (LP) which together seeks to ensure the design and layout of new housing takes into account context, setting and character of an area. It would also accord with Policy 74 which requires development to take into account and safeguard existing trees.

Living Conditions

13. Whilst the Council have suggested that the positioning of a dwelling close to the trees would place additional pressure on those trees to be harmfully pruned or removed in the future, given the trees are protected by a Tree Preservation Order, the Council would have control over any future works proposed to the trees.
14. I am also satisfied that the internal layout has been designed to take account of the position of the existing trees and that the use of multi-aspect windows to the open plan kitchen, lounge dining room means that light into this space would be maximised. The ground floor window closest to the protected trees would serve a utility room, a non-habitable room, therefore any impact, in terms of loss of light, as a result of its proximity to the tree would not be unacceptable to future occupiers. The first floor window, serving Bedroom 1, would be similarly located in terms of proximity, however as this is a room which would be more likely to be occupied during the evening, any impact in terms of outlook would be acceptable to future occupiers.
15. Having regard to the previous Inspector's findings on the living conditions of future occupiers, the orientation of the windows serving the family dining and living room were predominately to the north and in the case of the windows serving the living room would have been positioned in close proximity to G3. Therefore, I am satisfied that these concerns have been adequately overcome in the proposal before me, to enable me to come to a different conclusion.
16. I have had regard to the useability of the garden area, and whether or not this would be shaded to an unacceptable degree. The site currently receives a reasonable amount of light, as a result of the tree works that have taken place and due to the height of the canopy and the spacing between the trees. I note that the AMS recommends that the management of these trees is undertaken over a 5 year period to stagger the proposed works and subsequently the

¹ APP/B1930/W/18/3219247

stools could then be coppiced on a nominal rotational cycle of approximately 10-15 years depending on the growth and re-establishment of the coppice stools. Therefore, I am satisfied that with appropriate management of the trees, as set out within the AMS, the garden would continue to receive an acceptable level of light.

17. The previous Inspector noted, any future occupants would be aware of the garden size, outlook and proximity of the trees. However, appropriate standards of living should be provided. The Tree Protection Plan shows how the tree canopies would extend over the majority of the frontage of the site and therefore these areas would likely experience a degree of shading. However, the area directly in front of the lounge is open and not affected by any of the existing tree canopies. This area would provide a sufficiently reasonable sitting out area which would provide for an appropriate level of living standards.
18. In conclusion, the proposed development would provide acceptable living conditions for future occupiers of the proposed dwelling in respect of sunlight and daylight. Therefore, the development is in accordance with policies 70 and 74 of the LP which together seek to ensure good standards of amenity and in particular that buildings are not sited where they are likely to justify requests for tree felling for reasons of excessive shading.

Conditions

19. The Council has suggested conditions which I have considered against the advice in the Framework and Planning Practice Guidance. As well as the standard implementation condition, I have imposed a condition to ensure that the proposal is built in accordance with the approved plans to provide certainty.
20. Due to the lack of detail on the submitted plans, conditions in respect of details of materials and external lighting to be submitted in order to safeguard the character and appearance of the area are necessary. I consider that a condition to agree a scheme of hard and soft landscaping, including the implementation of the agreed measures for the protection of existing trees would also be necessary in this case given the protected status of the trees.
21. I have imposed a condition to ensure that any unexpected contaminants are correctly identified and remediated to ensure that the future users of the site are protected from risks associated with contaminants. In the interests of highway safety I have imposed a condition requiring the new access to be constructed in accordance with the submitted plans.
22. Given the proximity to other residential properties, I have imposed a condition limiting the construction hours and requiring details of any piling works, in order to protect the existing occupiers from noise and disturbance at times when they make expect to enjoy respite from such activities.

Conclusion

23. For the reasons given I conclude that the appeal should be allowed.

G Pannell

INSPECTOR

Condition Schedule

- 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: Site Location Plan 1:1250; Site Block Plan (Existing) 16-1181-02; Site Block Plan 19/1274/02B; Street Scene Drawing 19/1274/03; Proposed Floor Plans & Elevations 19/1274/01A; Tree Protection Plan TPP/LASWSAH/010 C2; Tree Removal Plan TRP/LASWSAH/010 C1 and Arboricultural Report: Arboricultural Impact Assessment and Arboricultural Method Statement by David Clarke (Feb 2020).
- 3) No development above slab level shall commence until details of the materials to be used in the construction of the external surfaces of the dwelling hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) The building shall not be occupied until a means of access for vehicles shall have been constructed in accordance with the approved plans. The access shall be retained thereafter.
- 5) No retained tree shall be cut down, uprooted, destroyed, pruned, cut or damaged in any manner within 5 years from the date of the occupation of the building for its permitted use, other than in accordance with the approved plans and details, without the prior written approval of the local planning authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 6) If any retained tree is cut down, uprooted or destroyed or dies another tree shall be planted at the same place and that tree shall be of such size and species and shall be planted, at such time as may be specified in writing by the local planning authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 7) No equipment, machinery or structure shall be attached to or supported by a retained tree.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 8) All the trees shown on the Tree Protection Plan as "to be retained" and/or any trees whose canopies overhang the site shall be protected by strong fencing, the location and type to be in accordance with the submitted Arboricultural Method Statement (Feb 2020). The fencing shall be erected in accordance with the approved details before any equipment, machinery or materials are brought onto the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed within any fenced area, and the ground levels within

those areas shall not be altered, nor shall any excavation be made, without the prior written consent of the local planning authority.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the approved plans and particulars.

- 9) No development above slab level shall commence until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. These details shall include:
- i) earthworks showing existing and proposed finished levels or contours;
 - ii) means of enclosure;
 - iii) vehicle parking layouts;
 - iv) other vehicle and pedestrian access and circulation areas;
 - v) hard surfacing materials;
 - vi) minor artefacts and structures [e.g. furniture, play equipment, refuse or other storage units, signs, etc.];
 - vii) proposed and existing functional services above and below ground [e.g. drainage, power, communications cables, pipelines etc. indicating alignments, levels, access points, supports as relevant];
 - viii) an implementation programme.

The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.

- 10) Details of soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate.
- 11) Details of any external lighting shall be submitted to and approved in writing by the local planning authority before the building is occupied. Development shall be carried out in accordance with the approved details.
- 12) Any contamination that is found during the course of construction of the approved development that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended and a risk assessment carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found remediation and verification schemes shall be submitted to and approved in writing by the local planning authority. These approved schemes shall be carried out before the development is resumed or continued.
- 13) Demolition or construction works shall take place only between 0730 and 1800 hours on Monday to Friday and 0800 and 1300 hours on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 14) Prior to any piling commencing on site, a method statement detailing the type of piling and noise emissions, shall be submitted to and approved in writing by the local planning authority. All piling works shall be carried out in accordance with the approved details.

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