



Appeal Decision

Site Visit made on 25 May 2021

by M Chalk BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 09 June 2021

Appeal Ref: APP/B1930/W/21/3268694

Barley Beans, 6 Marford Road, Wheathampstead, AL4 8AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a grant of planning permission subject to conditions.
 - The appeal is made by Mr & Mrs Harvey against the decision of St Albans City Council.
 - The application Ref 5/2020/1633, dated 20 July 2020, was approved on 15 September 2020 and planning permission was granted subject to conditions.
 - The development permitted is demolition of existing dwelling and garage and erection of new Passivhaus and garage and associated works.
 - The condition in dispute is No 5 which states that: Notwithstanding the provisions of Classes A, B, C and E, Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwelling(s) hereby permitted, including any additions or alterations to the roof, and no building or enclosure shall be constructed within the curtilage of the new dwelling without the prior written permission of the Local Planning Authority.
 - The reason given for the condition is: In the interest of residential amenity and to comply with Policies 69 and 70 of the St Albans District Local Plan Review 1994.
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Decision

1. The appeal is allowed and the planning permission Ref 5/2020/1633 for demolition of existing house and erection of a five bedroom detached house and garage with hard and soft landscaping works at Barley Beans, 6 Marford Road, Wheathampstead, AL4 8AS granted on 15 September 2020 by St Albans City Council, is varied by deleting condition 5 and substituting for it the following condition:
 - 1) Notwithstanding the provisions of Classes A, B and C of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), there shall be no enlargement or extension of the dwelling hereby permitted, including any additions or alterations to the roof of the new dwelling without the prior written permission of the Local Planning Authority.

Background and Main Issue

2. The appellants seek to vary the condition in dispute to remove the restriction relating to Class E permitted development rights for buildings incidental to the enjoyment of a dwellinghouse.
3. The main issue is therefore the effect that varying the condition would have on the living conditions of neighbouring occupiers, in particular those of No 4A Marford Road.

Reasons

4. Policies 69 and 70 of the St Albans District Local Plan Review 1994 (the LP) collectively require that new development take into account the scale of its surroundings in terms of height and size, and that the massing and siting of buildings shall create safe, attractive spaces of human scale.
5. No 4A Marford Road has several windows facing the shared boundary with the appeal site at varying distances. Two of these windows and a door face the boundary with very little separation. The ground level within the rear garden of the appeal site is significantly higher than that of the adjacent site, and a large outbuilding sited immediately along the boundary adjacent to No 4A could cause a loss of outlook from, and an overbearing impact to, these windows and the door.
6. However, the garden to No 6 is large, extending a considerable distance past No 4A in both directions. I cannot see any particular likelihood of a future outbuilding being sited in that area of the garden, given the extent of garden available. Even if an outbuilding were to be sited there, the maximum height would be limited by the restrictions in place regarding the size of residential outbuildings.
7. National planning practice guidance advises that the removal of permitted development rights by a condition on a planning permission may not pass the tests of reasonableness or necessity. In this case, there is only a limited likelihood of an outbuilding of sufficient size or scale to cause harm to the living conditions of the occupants of No4 being sited in the area of the garden where that harm would result.
8. I do not therefore consider that the removal of Class E permitted development rights is either reasonable or necessary, having regard to the effect that varying the condition would have on the living conditions of neighbouring occupiers and the requirements of Policies 69 and 70 of the LP.

Other Matters

9. I have had regard to third party concerns regarding disturbance arising from construction of the appeal proposal. However, this appeal only addresses the matter of condition 5 of the original permission and it is not within its scope to impose additional restrictions on the approved development.

Conclusion

10. For the reasons set out above, the appeal succeeds and the planning permission is varied as set out in the formal decision.

M Chalk

INSPECTOR