



Appeal Decision

Site Visit made on 23 November 2021

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 November 2021

Appeal Ref: APP/B1930/W/21/3278716

58 Abbey Avenue, St Albans AL3 4AZ

- 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 Ralf Pflugfelder (NP Pflugfelder) against the decision of St Albans City Council.
 - The application Ref 5/20/2794, dated 17 November 2020, was refused by notice dated 17 February 2021.
 - The development proposed is described as new build sustainable eco dwelling house to the rear of 58 Abbey Avenue.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are (i) the effect of the development on the character and appearance of the area, and (ii) its effect on the living conditions of the occupiers of 10 Rowlett Drive (No 10) in terms of privacy and the occupiers of other neighbouring properties in terms of noise.

Reasons

Character and appearance

3. The appeal property is in a predominantly residential area where houses tend to face onto the road and lie side by side. The site includes the property's long back garden which adjoins other gardens serving neighbouring dwellings.
4. The proposal would be contrary to the general pattern of development as it would be positioned behind the house on the site. Consequently, it would be largely screened from the road, although it would be visible through the proposed access gap. Also, it would be clearly seen from the rear windows and gardens of the nearby properties. From these vantage points, the development would look unusual as it would be positioned away from the lines of houses along local streets and amongst back gardens.
5. The upper storey of the proposed house would be in the roof space. Nevertheless, it would look uncharacteristically tall and large within the mainly open context of the gardens. Also, it would cover a significant proportion of the plot and so it would appear cramped in comparison to the local dwellings which have sizeable gardens.
6. I am referred to examples in the wider area where houses lie behind others. However, these are infrequent exceptions to the prevalent layout pattern of

dwellings. Also, the proposal would be away from any of these backland developments and so it would be seen in a different context. As such, I find the scheme would be incongruous regardless of the cited examples.

7. The lack of backland development and the length of the rear gardens are defining features of the site and its surroundings. In these regards, it is different to land at 20 Beckett's Avenue and to the rear of 21 Wood End Road where dwellings have been granted planning permission on appeal. As such, these developments are not comparable to the proposal and so I am not bound to follow these appeal decisions.
8. The development is described as an eco-friendly, low energy house. However, the National Planning Policy Framework (the Framework) only offers support for innovative design proposals where they fit in with the overall form and layout of their surroundings. As such, the sustainable build aspects of the development would not override the identified incongruity.
9. The Council raise a concern about precedent and I note the appellant's comments in response. Whilst each application and appeal must be treated on its individual merits, approval and construction of the development could be used in support of other backland schemes on adjoining and nearby land. The appeal site is at the end of a line of properties with long back gardens and so there is a reasonable prospect of similar schemes being repeated. The cumulative effect of such developments would significantly detract from the established layout pattern and openness of land to the rear of houses.
10. For the above reasons, I conclude the development would harm the character and appearance of the area. In these regards, it would not accord with policies 69 and 70 of the St Albans District Local Plan Review 1994 (the LP). Amongst other things, these look to ensure development is of a high standard of design that takes into account its setting and the character of its surroundings.

Living conditions

11. Currently, a fence on a raised level prevents overlooking from the appeal property garden onto No 10. However, the first floor bedroom windows on the rear of the proposed dwelling would provide views over the fence due to their elevated position and proximity to the boundary. I saw the trees to the rear of the site would not prevent overlooking during times of leaf fall and they cannot be relied upon to provide screening in perpetuity. Also, the outbuilding to No 10 would only obstruct views of a small element of its back garden as it is low and stretches across just part of the plot.
12. There is no dispute between the parties that the development would be more than 27 m from the rear wall of No 10. In these regards, it would comply with the standard as set out in LP policy 70. However, the Council's Design Advice Leaflet on the Design and Layout of New Housing 1998 (DAL) states that in most new housing development there should be a rear garden length of 13.5 m to avoid a loss of privacy to neighbouring properties. The rear bedroom windows would be a maximum of 7.25 m away from the boundary and so the proposal would fail to meet the DAL guidance. As it does not form part of the development plan, non-compliance with the DAL is not entirely determinative on the acceptability of the proposal. However the failure to comply with the guidance indicates a potentially harmful loss of privacy.

13. No 10's back garden is already overlooked from first floor windows in the rear elevations of properties on either side. However, these views are towards the end of the garden. In contrast, the windows of the proposal would allow direct and easy sight of most of No 10's garden, including the part closest to the house. As such, the overlooking from the proposal would be more intrusive to No 10's occupants compared to that from any other property. Even when taking into account the typical level of overlooking to gardens in suburban locations, the proposal would cause a significant loss of privacy.
14. The appellant refers to an appeal decision that allows residential development at Crossfields. However, the decision makes no mention of the DAL in relation to the issue of privacy and so I am unsure whether its provisions in these regards were taken into account. In any event, the Inspector refers to only oblique views towards neighbour's gardens whereas the proposed bedroom windows would provide direct views towards No 10. As such, this previous decision fails to influence my views on this matter.
15. Similarly, the Inspector for the referred to appeal relating to 21 Wood End Road does not mention the DAL. Also, the decision describes the adjoining gardens as very long and wide and the new windows being away and set at an angle to the neighbour's patio. This decision is afforded little weight in my assessment as the development's relationship with adjoining properties is not comparable to the appeal scheme.
16. The appellant suggests that a planning condition requiring obscured glazing or angled shutters would address overlooking concerns. I note the Inspector's comments in support of such a condition in respect of the referred to Beckett Avenue appeal decision. However, no such details are shown on the plans and the Council raises concerns that such measures may have an unacceptable effect on outlook from the proposal. As such, I am unconvinced that such a condition would be reasonable.
17. Turning to the issue of noise, it is fair to expect that occupants of the properties on either side of the appeal site would hear cars moving along the proposed access and into and out of the parking area. Vehicles are unlikely to travel quickly and the scheme would generate a small number of trips and so traffic noise is unlikely to be excessive. Even so, the sound of moving cars would disturb the tranquil nature of the site and its surroundings and so would cause minor detriment to the living environments at the neighbouring dwellings. The existence of similar developments elsewhere fails to show the proposal would be acceptable in these regards.
18. For the above reasons, I conclude the development would cause unacceptable harm to the living conditions of the occupiers of No 10 in respect of loss of privacy as well as the living conditions of the occupiers of other neighbouring properties in terms of noise. In these regards, it would not accord with LP policy 70, which amongst other things, looks to ensure development takes account of its setting and achieves privacy objectives.

Other Considerations

19. The Council advise that it is unable to demonstrate a 5 year supply of housing land as required under paragraph 74 and footnote 7 of the Framework. In such circumstances, it is necessary under the terms of paragraph 11 d) of the Framework to assess any adverse impacts of the proposal against its benefits.

20. The scheme would conflict with the Framework policies that seek to ensure development is sympathetic to local character and to create places with a high standard of amenity for users of property. As such, it would not be good design and it would be at odds with a key aspect of sustainable development. Therefore, I attach significant weight to the harm caused in these regards.
21. The proposal would provide appropriate living conditions for its occupants, as well as water consumption and energy efficiency measures. Also, it would have a safe access and would be located to enable residents to travel by foot and public transport to facilities. As a small scheme it could be delivered quickly and it would add to the stock of dwellings at a time when there is an acknowledged shortage of housing land. However, as an additional single unit, its contribution in these regards would be modest.
22. Overall, I find the harm arising from the proposal would significantly and demonstrably outweigh the benefits of the scheme when considered against the policies of the Framework. As such, the presumption in favour of granting permission as set out at paragraph 11 of the Framework does not apply.

Conclusion

23. For the above reasons, I conclude the proposal would conflict with the LP when read as a whole. Also, there is insufficient justification to determine the appeal other than in accordance with the development plan. As such, the appeal is dismissed.

Jonathan Edwards

INSPECTOR