



---

# Appeal Decision

Site visit made on 26 April 2022

**by J Bowyer BSc(Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 04 May 2022**

---

**Appeal Ref: APP/B1930/W/21/3286198**

**50-52 Mayflower Road, Park Street, St Albans AL2 2QW**

- 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 Toms, Toms and Wood Construction Ltd against the decision of St Albans City Council.
  - The application Ref 5/21/1730, dated 11 June 2021, was refused by notice dated 19 August 2021.
  - The development proposed is demolition of Nos. 50 and 52 Mayflower Road and existing garage structures and the construction of 3 no. four-bedroom detached dwellings, altered and new vehicle crossover and associated landscaping.
- 

## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Although different details were entered on the appeal form, it has subsequently been confirmed that the appeal should proceed in the name of Mr Toms, Toms and Wood Construction Ltd in whose name the original application was made.
3. The Council's decision notice gives a slightly different description of development to that originally stated within the planning application. However, neither party has provided written confirmation that a revised description of development was agreed, and I have therefore used the one given on the original planning application form in the banner heading above.

## Main Issues

4. The main issues are (i) the effect of the proposal on the character and appearance of the area; and (ii) the effect of the proposal on the living conditions of the occupiers of 54 Mayflower Road with particular regard to privacy and whether or not it would be overbearing.

## Reasons

### *Character and Appearance*

5. Mayflower Road is predominantly characterised by detached and semi-detached dwellings, typically with long rear gardens that provide for a spacious backdrop to the buildings. However, plots and the gaps between buildings vary in width. Moreover, while the dwellings are typically set back similar distances from the street, the building line is not uniform, and the appeal site sits within a run of dwellings which are orientated at an angle to their frontages and which appear to step generally forward towards the street as it runs towards Orchard Drive

from the junction with Dell Rise. As a result, the pattern of development is somewhat irregular. The dwellings themselves further vary significantly in form, height, architectural style and appearance, and these factors in combination provide for a fairly diverse character and appearance to the street scene.

6. The appeal site formerly included 2 bungalows known as 50 and 52 Mayflower Road, although these had been demolished at the time of my visit. The proposal for 3 two-storey dwellings with additional accommodation at roof level would undoubtedly result in a considerable increase in built form in comparison to Nos 50 and 52. However, the width of the plots and the spacing between the buildings would not be out of keeping with other development in the vicinity of the site, and each would have a generous garden to its rear. The buildings would broadly follow the existing building line on this part of Mayflower Road, retaining an appreciable set back from the street, and while soft landscaping to the frontage of the site would be relatively limited, I noted other dwellings in the vicinity with frontages predominantly given over to hardstanding. Consequently, I do not find that this treatment would be out of keeping or conspicuous within the street scene, and I am satisfied that there would remain a suitable sense of spaciousness on the site in keeping with the general character of Mayflower Road.
7. I appreciate that the dwellings would be much taller than Nos 50 and 52 were. They would also be taller than the adjacent dwelling at 54 Mayflower Road, and their height at the eaves would be greater than the eaves of both this building and the neighbour at 48 Mayflower Road to the other side. However, there is little consistency in the Mayflower Road roofline, and I saw many instances of buildings with eaves and ridges much higher than those of their immediate neighbours. In this context, the height of the dwellings relative to their neighbours and the former development on the site would not be incongruous or visually jarring. I am further satisfied having regard to their position on the site and the separation provided to Nos 48 and 54 that the contrast in height would not appear unduly visually dominant against these neighbours.
8. Notwithstanding the increase in built form, I find given these factors that the height and overall scale of the dwellings would sit comfortably on the site and as part of the mixed street scene, and that the development would assimilate well with its surroundings.
9. I therefore conclude on this main issue that the proposal would not cause unacceptable harm to the character or appearance of the area. Accordingly, I find no conflict in this regard with saved Policies 69 or 70 of the St Albans District Local Plan Review 1994 (DLPR) which together broadly seek to ensure high quality design and development that respects its setting and the character of its surroundings. The proposal would similarly accord with the National Planning Policy Framework (the Framework) which seeks the creation of well-designed places and development that is sympathetic to local character.

### *Living Conditions*

10. The proposed dwellings would be positioned behind the line of the rear elevation of No 54, with relatively limited separation between the rear of this neighbour and the closest dwelling (Unit 3). Unit 3 would be set in from the adjacent section of the neighbouring garden, but the site boundary curves inwards as the

site narrows towards the street. As a result, the closest side of the dwelling would effectively be on a similar alignment to the closest side of No 54.

11. Despite the Council's assertion that Unit 3 would sit directly behind No 54, it seems to me that it would not overlap to any significant degree with the rear elevation of this neighbour. Even so, it would be taller than this dwelling, and would present a fairly deep structure of substantially greater height than the existing boundary fencing. The appellant indicates that some of the windows to the rear of No 54 serve non-habitable rooms and/or are subject to planning conditions requiring that they are obscure glazed. Be that as it may, there are also windows serving habitable rooms. While these are not the windows closest to the boundary, I consider that the combination of the height and depth of Unit 3 in such close proximity to even the furthest rear windows of No 54 would be dominant and overbearing, and that the relationship would harm outlook for the occupiers.
12. In addition, there would be a first-floor bedroom window to the front of Unit 3 close to the boundary. I note that this would face the frontages of the appeal site and No 54, and that views towards windows at the rear of No 54 would be at an oblique angle. Even so, the angle would not be so acute that I consider the neighbouring windows would fall outside my experience of a normal field of outlook, even those to the furthest habitable rooms. There would also be views onto the adjacent part of the neighbouring garden. I appreciate that these would only affect a small proportion of the garden, and that some overlooking between dwellings is not uncommon within built-up areas. Nevertheless, I consider that the relationship and close proximity at which overlooking would occur here would be unusual and intrusive, and would cause a harmful loss of privacy for the neighbouring occupiers.
13. The appellant asserts that the relationship would be similar to that existing between 46 and 48 Mayflower Road. However, No 46 does not sit wholly to the rear of No 48, and while it projects some way deeper at the rear, I saw that its rear elevation is stepped and the closest section extends only a fairly modest distance beyond the rear of the single-storey part of No 48. Moreover, it does not include windows that face back towards the rear of No 48. Accordingly, I do not consider the relationship comparable to the development that is before me, and it does not justify the harm that I have identified would be caused to the living conditions of the occupiers of No 54.
14. I therefore conclude that the development would be overbearing and would result in an unacceptable loss of outlook and privacy for the occupiers of 54 Mayflower Road, and that these factors in combination would cause significant harm to the living conditions of the occupiers. Accordingly, the proposal would conflict with saved Policy 70 of the DLPR which requires, amongst other things, that development provides for tolerable levels of privacy. It would also be contrary to the requirement within the Framework for a high standard of amenity for existing and future users.

### **Other Matters**

15. The appellant has made changes to the development from a previous scheme that was refused by the Council, but this is not a factor that alters my assessment of the planning merits of the proposal.

16. The Council accepts that it cannot demonstrate a five year supply of housing, and has not disputed the appellant's evidence that the current supply position is around 2.4 years. The appellant has also drawn my attention to results of the Housing Delivery Test indicating that recent delivery of housing has been well below targets. As a consequence of these shortfalls which I consider to be substantial, the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework would be engaged. This provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
17. In terms of benefits, the Framework seeks to boost significantly the supply of homes. It encourages the use of under-utilised and previously developed land, and advises that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built out relatively quickly. The appellant suggests that the bungalows that were formerly on the site were not suitable for occupation, but I have no firm reason to consider that they could not have been renovated or 2 replacement dwellings provided. Nevertheless, the proposal would make effective use of the site which is located within an existing settlement with access to some local services and public transport links to provide one additional dwelling. I have no reason to doubt that the proposed dwellings would be of suitable quality, and in light of the considerable housing under-supply position, I give great weight to the provision of an additional dwelling on the site. However, the extent of the benefit would be very limited given the small scale of the development. There would also be social and economic benefits associated with construction and occupation of the dwellings, but these would also be limited by the small scale of the development and I give them modest weight.
18. While I have found that the proposal would be sympathetic to the character and appearance of the area, it would be overbearing to 54 Mayflower Road and would harm privacy for the occupiers of this dwelling contrary to the Framework's requirement that development creates places with a high standard of amenity for existing and future users. In my judgement, the resulting overall harm to the living conditions of the neighbouring occupiers would be significant, and in the context of paragraph 11(d) of the Framework, I find that the adverse impacts of the development would significantly and demonstrably outweigh the modest benefits of the proposal when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework.

## **Conclusion**

19. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

*J Bowyer*

**INSPECTOR**