
Appeal Decision

Site visit made on 6 April 2022

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 May 2022

Appeal Ref: APP/B1930/W/21/3286091

Garages Rear Of 34 To 40, College Road, St Albans AL1 5ND

- 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 A. & A. Vankad & Mangera (AEM Wealth LLP and A Y & U Ltd) against the decision of St Albans City & District Council.
 - The application Ref 5/21/1303, dated 29 April 2021, was refused by notice dated 02 July 2021.
 - The development proposed is demolition of garage court and construction of three apartments with associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Subsequent to the appeal being lodged, the appellants provided details of a planning permission¹ relating to the appeal site granted by the Council for demolition of garages and construction of two apartments with associated parking and landscaping works. The Council were given an opportunity to comment on this recent permission and, in doing so, the Council maintained their objection to the current appeal scheme.

Main Issues

3. The main issues are the effect of the proposed development on:
 - the character and appearance of the surrounding area; and
 - the living conditions of surrounding occupiers with particular regard to privacy, outlook, daylight and sunlight.

Reasons

Character and Appearance

4. The appeal relates to a backland site within an established residential area. The site is accessed off the western side of College Road and includes a court of flat roofed garages to the rear of properties fronting College Road, Camp Road and Ely Road. Whilst there is variation in the scale and form of properties in the surrounding area, the predominant character is of 2-storey dwellings fronting onto the highway and with gardens to the rear. The existing garages on the

¹ LPA Ref: 5/21/3061

site, and surrounding trees, can be glimpsed from College Road. The limited height of the garages means that the more spacious rear garden areas can be perceived and the linear frontage street character is dominant. The other examples of backland development off College Road are typically single storey in scale and the larger scale flatted properties on College Road maintain the street facing building line, having their parking courts to the rear.

5. The Council has granted planning permission on 3 occasions for the redevelopment of the site with housing. Two permissions² were granted in 2018 for the construction of two semi-detached dwellings. A further permission³ was granted in April 2022, following the submission of this appeal, for the construction of two apartments. As such, the residential development of the site has been accepted in principle by the Council and I have no substantive reason to disagree. Notwithstanding this, the appeal development has a higher main ridge, more bulky eastern elevation, larger footprint, and is located closer to the rear boundaries of the dwellings on College Road than any of the Council's other previously granted developments. As such, the effect of the current proposal on the character and appearance of the area would be materially different to the previously granted permissions.
6. The increased size and bulk of the development, in combination with the reduced space between the building and the site's eastern boundary, would result in the building appearing uncomfortably cramped within its plot. The extensive length of the flank wall, with limited relief, positioned close to the site's eastern boundary, would appear out of character, obtrusive and excessively bulky in private views from surrounding dwellings. In glimpsed public views from College Road, the scale of the proposed building would relate poorly to the predominantly linear frontage street character of the area, appearing as a visually dominant and incongruous feature in the locality.
7. Accordingly, the development would have a harmful effect on the character and appearance of the area. It would, therefore, conflict with saved Policies 69 and 70 of the St Albans District Local Plan Review 1994 (LPR), which together, amongst other things, requires high quality design that has regard to its setting and to the character of its surroundings. Moreover, the development would be inconsistent with the Framework as it would not add to the overall quality of the area and would not be sympathetic to the local character.

Living Conditions

8. The appellants' statement advises that the rear window serving a first-floor bedroom in the development would be positioned approximately 6.7m from the common boundary with the rear garden of 32 College Road. Such a limited separation distance between the window and the rear boundary would be significantly below the distance LPR Policy 70 (vii) recommends to normally achieve privacy objectives. I note that the window would directly overlook the end portion of no 32's rear garden and that there is an existing outbuilding at the back of the garden. Nevertheless, a substantial area of usable garden space would be overlooked and the size of no 32's rear garden is not such that the overlooked area could be deemed as unimportant to the occupant's living conditions. The continuous health of any additional boundary planting cannot be guaranteed and therefore offers limited mitigation to overlooking. I have

² LPA Refs: 5/18/1180 and 5/18/2604

³ LPA Ref: 5/21/3061

had regard to the level of overlooking from rear windows that the Council has deemed acceptable in relation to previous permissions but note that the separation distance to the common boundary of no 32 is less in the case of the current appeal proposals. As such, the proposal would result in a more harmful degree of overlooking and loss of privacy to the garden of no 32.

9. The eastern flank of the proposed building would be located close to the common boundary with the maisonette dwellings at 34 to 40 College Road. The height and bulk of the building would dominate the outlook from the rear facing windows of these properties and would inevitably reduce the amount of daylight and sunlight reaching the facing windows. The detrimental effect on living conditions, due to the loss of sunlight and daylight, would be greatest within the ground floor maisonettes. The rear garden areas to these maisonettes would also be harmfully overshadowed, and the lack of separation to the bulk of the flank elevation would result in a harmfully overbearing effect when within the rear gardens. Given the orientation of the maisonettes' gardens, the overshadowing would be most pronounced in late afternoon and early evening. I have had regard to the level of sunlight, daylight and overbearing impact on the maisonettes that the Council has deemed acceptable in relation to previous permissions but note that, in the case of the current appeal, the height of the building is greater, and the separation distance to the common boundary of the maisonettes is less. As such, the proposal would result in a more harmful effect in terms of loss of daylight, sunlight and visual outlook.
10. I have also had regard to the objections of surrounding occupiers on Camp Road and Ely Road in relation to the effect of the proposal on their privacy, outlook, daylight and sunlight. The long gardens of the dwellings on Ely Road, and the substantial separation distance to the properties on Camp Road, result in appropriate living conditions being maintained for those surrounding occupiers.
11. Overall, however, for the reasons noted above, the development would result in harm to the living conditions of surrounding occupiers contrary to LPR Policies 69 and 70, which taken together require, amongst other things, high quality design that achieves attractive spaces with appropriate levels of privacy, daylight and sunlight. Furthermore, the proposal conflicts with the Framework requirement that decisions should ensure that developments create places with a high standard of amenity.

Other Matters

1. I have had regard to the other objections to the development raised by neighbours. The Council did not conclude that any other matters would amount to reasons to justify withholding planning permission. I have been provided with no substantiated evidence that would prompt me to disagree with the Council conclusions in this regard.

Planning Balance

2. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan unless material considerations, including the Framework, indicate otherwise.

3. Paragraph 11(d) of the Framework is engaged because the Council is unable to demonstrate a five year supply of deliverable housing sites. In such circumstances, the Framework indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework policies taken as a whole.
4. I acknowledge that the proposal would result in some economic and social benefits, including through its construction and as a result of an increase in spending, and patronage of facilities, in the local area. The proposal would contribute to the supply of housing in a location where there is an identified shortfall in supply of deliverable sites, and where the distances to services and facilities would limit the need to travel. However, as the proposal is for only 3 dwellings, the benefits identified attract limited weight.
5. The Framework is clear that the use of previously developed land is encouraged subject to suitable opportunities existing. The granting of previous permissions for the residential development of the site indicates that suitable opportunities exist but that does not mean the current appeal development is suitable for the site. Indeed, I have found that the proposal would harm the character and appearance of the area, and also harm the amenity of surrounding occupiers, contrary to the provisions of the Framework. The identified conflict with these Framework policy requirements carries significant weight. I find this identified harm would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
6. I give significant weight in favour of the appeal to the previous permissions on the site for residential development. However, the current proposal would be more harmful, in relation to the main issues of this appeal, than the effects of those previously approved developments.
7. The proposal would, therefore, conflict with the development plan when read as a whole, and there are no other considerations, including the Framework, that outweigh the identified conflict.

Conclusion

8. For the above reasons, the appeal is dismissed.

S D Castle

INSPECTOR