



Appeal Decision

Site visit made on 30 June 2022

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 August 2022

Appeal Ref: APP/B1930/W/21/3278024

Land to the rear of 44A, 44B & 44C Lybury Lane, Redbourn, AL3 7HY

- 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 N. Bareham (Lansberry Ltd.) against the decision of St Albans City & District Council.
 - The application Ref 5/21/0565 dated 22 February 2021, was refused by notice dated 18 May 2021.
 - The development proposed is a two-bedroom detached bungalow.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Since the appeal was submitted, a revised version of the Framework¹ has been published. The appellant was given the opportunity to comment on this and I have taken their response into account. It was not necessary to consult the Council in respect of the revised Framework as it had ample opportunity to refer to this in its appeal statement, which was submitted after it was published.
3. The Council submitted late evidence relating to the Chilterns Beechwoods Special Area of Conservation (SAC), in connection with recent advice provided by Natural England dated 14 March 2022 to avoid adverse impacts upon this. However, given that I am dismissing the appeal for other reasons, it has not been necessary for me to consult the appellant in respect of this matter as it would not have altered the outcome.

Main issues

4. The main issues are the effect of the development on:
 - the character and appearance of the area;
 - the living conditions of neighbouring occupiers at No 42 Lybury Lane, with particular regard to visual impact.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, July 2021.

Reasons

Appeal site context

5. The appeal site consists of an area of overgrown shrubland to its eastern end and a narrow private road accessed from Lybury Lane which runs between a modern 2½-storey terrace of 3 dwellings and a mature 2-storey detached house.
6. The private road also provides access to a parking court which is set behind the modern terrace of 3 dwellings and used by their occupants. To the south of the appeal site lies the rear garden of No 42 Lybury Lane, which slopes down in an easterly direction. The private road and parking court is primarily enclosed with circa 2-metre high timber fencing.
7. Lybury Lane is a predominantly residential area and its eastern side (where the appeal site is located) is characterised by mature semi-detached and detached 2-storey houses and bungalows fronting onto the road with ample private gardens to the rear. The western side consists of an open grassed area containing mature trees, behind which is set a post-WWII development of 2-storey terraced houses, with their front elevations and side gables fronting onto Lybury Lane.

Character and appearance of the area

8. The proposed bungalow would be set in a backland position well behind the main frontage of dwellings on Lybury Lane and just inside the north and southern boundaries of the appeal site and in close proximity to its eastern boundary. As a consequence, it would have disproportionately small amount of undeveloped garden space within its curtilage when compared to its built footprint. This would give it a cramped and contrived appearance and convey the impression that it had been squeezed onto the site.
9. Although not all plot sizes and shapes are the same in the surrounding area, I do not agree with the appellant that there is no consistent pattern of development. As described above, the eastern side of Lybury Lane is characterised by dwellings fronting onto the road with ample private gardens to the rear. As a consequence, the cramped backland nature of the scheme would be out of character with this.
10. The appellant states that the proposed bungalow would be viewed and understood in a local context where there are other forms of backland development such as parking courts. However, none of the backland developments identified by the appellant are comparable to the scheme before me and neither do they alter my view that the bungalow would be read in its local context as a cramped and nondescript backland dwelling forming the backdrop to an unremarkable parking court and private road surfaced in utilitarian black hardcore and enclosed by unattractive timber panel fencing.
11. I agree with the appellant that there are a diverse range of architectural styles within the area which would allow for a more flexible approach to design articulation. However, despite the appellant stating that the proposed bungalow would add to local diversity and be constructed using high quality materials, it is my view that its nondescript design and unattractive setting would fall well below the quality necessary for it to result in a new positive addition to the

character and appearance of the area that would overcome the harm identified and justify a change to the established settlement pattern.

12. The appellant also states that there would only be glimpsed views of the scheme from Lybury Lane. However, I do not consider reduced public visibility to be a sound basis upon which to justify an otherwise harmful design as this could be repeated too easily and often for all forms of poor quality development.
13. In view of the above, I conclude that the development would be harmful to the character and appearance of the area. The proposal would therefore conflict with Policies 69 and 70 of the Local Plan², which collectively seek, amongst other things, to ensure that developments take into account the character of an area.
14. I also find that the scheme conflicts with Paragraphs 130 and 134 of the Framework, which seek, amongst other things: (a) development that is sympathetic to local character; and (b) schemes that maintain a strong sense of place; and (c) the refusal of development that is not well designed.

Living conditions of neighbouring occupiers at No 42 Lybury Lane, with particular regard to visual impact

15. The appellant states that the proposed bungalow is set on lower ground than the dwelling at No 42 Lybury Lane ('No 42'). However, it would nonetheless be significantly higher than the dividing garden fence with No 42 and set just inside this. As a consequence of its close proximity, height and mass, the roof and side gable of the bungalow would appear visually intrusive and oppressive to the occupants of No 42 when using their rear garden, which would be harmful to their living conditions.
16. The appellant has sought to justify this visual impact on the basis that there would be little difference between it and the double width garage already permitted (but not yet constructed) in connection with the modern terrace of 3 dwellings³. However, there is a considerable difference between both schemes in terms of their height, scale and form and hence the garage does not set any kind of precedent for the proposed bungalow or justify its harmful impact.
17. In view of the above, I conclude that the development would be harmful to the living conditions of neighbouring occupiers at No 42. The proposal would therefore conflict with Paragraph 130 of the Framework which states that planning decisions should create places with a high standard of amenity for existing users.

Planning balance

18. Although the Local Plan is over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.

² St Albans District Plan, City and District of St Albans District Local Plan Review, Adopted 30 November 1994, Written Statement.

³ Planning Permission 5/20/2514 dated 11 February 2021.

19. Policies 69 and 70 of the Local Plan are broadly consistent with the Framework insofar as they relate to the main issue of this case and I am satisfied that the proposal conflicts with the development plan when taken as a whole.
20. In support of the scheme, the appellant states that the proposed bungalow would not be at risk from flooding, there is no potential for archaeological remains and would provide satisfactory off-road parking, and has also pointed out that it does not fall within a conservation area, site of special scientific interest, the Green Belt, a local nature reserve or any other site of ecological interest. However, none of these factors demonstrate the absence of harm to the character & appearance of the area and the living conditions of neighbouring occupiers.
21. The Council has confirmed that there is a shortfall in the District's 5-year housing land supply and I have also noted that the delivery of housing was substantially below the housing requirement over the previous three years⁴. This means that the Framework's presumption in favour of sustainable development applies.
22. My attention has been drawn by the appellant to two planning appeal decisions in which the Inspector concluded that very substantial weight should be given to the provision of market and affordable housing and substantial weight to the provision of self-build housing within the administrative boundaries of St Albans City & District Council and Welwyn Hatfield Borough Council⁵. Whilst I see no reason to disagree with these conclusions, both of these decisions related to a much larger development of up to 100 dwellings of different tenures & construction types and is not therefore comparable to the scheme before me.
23. I do nonetheless recognise that the delivery of one additional bungalow would make a small but meaningful contribution towards supporting the Government's objective of significantly boosting the supply of homes and that small sites have an important role to play in housing delivery. As a consequence of this and the significant shortfall in the Council's housing supply, I have given this benefit additional weight in my planning balance assessment.
24. In accordance with Paragraph 120 of the Framework, I have also given substantial weight in my consideration to the scheme's reuse of a brownfield site⁶, and recognise that it would promote the development of under-utilised land. I have not however given the scheme great weight as a small windfall site in accordance with Paragraph 69 of the Framework as I do not consider it to be a suitable site within an existing settlement for a home. Neither would it result in an efficient use of land taking into account the desirability of maintaining an area's prevailing character and setting in accordance with Paragraph 124.
25. I recognise that the scheme would result in economic and social benefits from;
- (a) a quickly-deliverable contribution towards the Council's 5-year housing land supply; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; (c) a suitable low-maintenance dwelling for an elderly person to downsize to; and (d) local employment during construction. However, given

⁴ 2021 Housing Delivery Test.

⁵ Reference No: APP/B1930/W/20/3265925 and APP/C1950/W/20/3265926, both decisions dated 14 June 2021.

⁶ The appeal scheme proposes redevelopment of a site which originally had one dwelling. As a consequence, it does not fall solely on residential garden land in a built-up area, which is excluded from the brownfield land definition in the Framework.

the small size of the development in terms of housing units, I consider these benefits to be of limited value (even allowing for the additional weight given to the delivery of housing) and that the adverse impacts of the scheme would significantly and demonstrably outweigh these, when assessed against the policies in the Framework when taken as a whole.

26. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

Conclusion

27. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR