



Appeal Decision

Site visit made on 18 August 2022

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 September 2022

Appeal Ref: APP/K1935/W/22/3290545

168 Fairview Road, Stevenage SG1 2NE

- 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 D Nye against the decision of Stevenage Borough Council.
 - The application Ref 21/00809/FP, dated 16 July 2021, was refused by notice dated 12 October 2021.
 - The development proposed is the erection of a 2-bedroom detached dwelling with parking and access.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, a building in the back garden was under construction. The development was not complete. Accordingly, in the interests of fairness, I have considered the appeal on the basis that the development is proposed as shown on the application drawings.
3. Since the application was refused, the Council has published its Housing Delivery Test Action Plan (AP). The appellant was invited to provide representations on the AP. I have considered the appellant's response in my determination of the appeal.

Main Issues

4. The main issues are:
 - whether the location of the proposed development is appropriate, having regard to local planning policies on the location of housing;
 - the effect of the proposed development on the character and appearance of the area; and
 - whether the proposed development would provide satisfactory living conditions for the future occupiers with particular regard to outlook and access to private outdoor space; and

Reasons

Location

5. Paragraph 12 of the National Planning Policy Framework (2021) (the Framework) is clear that the development plan is the statutory starting point for decision making. Moreover, where a planning application conflicts with an

up-to-date development plan, permission should not usually be granted unless material considerations indicate that a plan should not be followed.

6. As I have set out above the proposal is located within the rear garden of No 168. Policy HO5 of the Stevenage Borough Local Plan 2019 (LP) specifies exceptions where development on windfall sites will be supported, subject to meeting other relevant policies of the LP. Given the location of the site, it would have access to a range of local facilities and services and its small scale and location would not prejudice the deliverability of housing on allocated sites. It would also be unlikely to overburden existing infrastructure thereby compiling with other relevant criteria of Policy HO5.
7. However, to be compliant with criterion a. of Policy HO5 proposals will be required to be on previously developed land or that it is a small underused urban site. The Framework excludes land in built-up areas such as residential gardens from being considered as previously developed land. Moreover, the evidence before me, states the appellant would use permitted development rights for an outbuilding should the appeal fail. This would match with my onsite observations which include recent construction work for an outbuilding. For these reasons, I find that the site cannot be considered an underused urban site within the meaning of criterion a. of Policy HO5 of the LP.
8. As Policy HO5 requires compliance with other policies of the LP and in finding harm to the character and appearance of the area the proposed development would not be compliant with criterion c. of Policy HO5 of the LP.
9. I conclude that the development proposed would not accord with the plan led strategy for windfall sites set out in the Local Plan and there are no exceptions or identified policies that would permit additional dwellings in this location. As the appeal site would not represent an appropriate location for housing, it would conflict with Policy HO5 of the LP and the Framework.

Character and Appearance

10. The appeal site is located within an area comprising a variety of two-storey dwellings of different designs and sizes. At the rear of the site is a buffer of well-established trees screening commercial units. Except for the Gunnells, a small cul-de-sac to the south, dwellings in the immediate area are typically set back from the road with open frontages and large rear gardens, which makes a positive contribution to the openness of the area. I saw how the long rear gardens and the well-established tree buffer, provide an open and verdant appearance along the rear of this undisturbed section of Fairview Road.
11. The front building line of the proposed dwelling would closely align with the terrace row located within the Gunnells. However, it would nonetheless introduce a dwelling which does not reflect the established pattern and grain of development which is two-storey dwellings set within large plots. As a result of its low height, shallow pitch and plot size seen against larger properties in more spacious plots, the introduction of the dwelling would appear as an incongruous addition within the surrounding area that would be out of keeping with the prevailing spacious character of the area.
12. Additionally, whilst views from Fairview Road would be limited, the proposed dwelling given its height, footprint, associated domestic paraphernalia, separate access and boundary treatments would be highly visible from the rear

of nearby properties. This would likely reduce the appreciation nearby occupiers have about the quality of the environment within which they live. Thereby harming the character and appearance of the area.

13. The appellant has drawn my attention to other developments which have similarly sized plots. Whilst I do not have full details of these schemes, I note the example of the Gunnells is in a cul-de-sac arrangement and was built as part of a new development and has a different layout and appearance overall. Similarly, the development to the rear of 206 and 208 Fairview Road is for a number of larger dwellings in a short terrace row. Other examples are directly located off Fairview Road where access is not gained through the side of existing dwellings. In this regard, existing developments are materially different to the appeal proposal and therefore I cannot draw any direct comparison that weighs in favour of the proposal.
14. In light of the above, I conclude that the proposed development would significantly harm the character and appearance of the area, contrary to Policies SP8, GD1 and HO5 of the LP. These policies, amongst other things, seek to ensure that development is of good quality design. The proposal would also conflict with the provisions of paragraph 130 of the Framework and guidance contained within the Stevenage Design Guide Supplementary Planning Document (2009) (SDG) which seek to ensure that development is sympathetic to its surroundings and respects local character.

Living Conditions

15. Policy GD1 of the LP requires, amongst other things, proposals to have regard to the requirements of the SDG. The SDG requires that new dwellings should provide a minimum garden space of 50 sq. m. As the development would provide above this figure, it would satisfy the SDG in that respect. However, the SDG also states that gardens should also normally have a depth of 10m.
16. The Council calculate that the garden would be approximately 6m at its deepest. Thus, it would fall far short of the requirements of the SDG and I have nothing substantive before me to suggest that such a requirement is not reasonable for a scheme of this nature. Whilst I acknowledge that an adequately sized garden would be provided in terms of overall space available, given its limited depth sited between the proposed dwelling and the mature tree buffer it would be a somewhat constrained and confined space, with limited daylight throughout the day. The use of the side garden would not be sufficient to overcome this harm. As a result, it would not offer a good level of amenity for future occupiers.
17. As a result of the limited depth of the garden, a short separation distance between the proposed dwelling and the rear boundary of the site would exist. The established trees and planting which are outside of the appellant's control are of such a height and close distance that they would appear as an overbearing and imposing feature enclosing the small garden area and views out of this rear elevation thereby providing unsatisfactory outlook for future occupiers of the proposed dwelling.
18. I find therefore that the proposed development would fail to provide satisfactory living conditions for the future occupiers, with particular regard to outlook and access to private outdoor space. It would therefore be in conflict with Policy GD1 of the LP, which seeks, amongst other things, to ensure that

development does not lead to an adverse impact on the amenity of future occupiers. In reaching this decision I have also had regard to the SDG.

Other Matters

19. Footnote 8 to paragraph 11 d) of the Framework directs that where the Housing Delivery Test shows that the delivery of housing has been substantially below the housing requirement over the past three years, Paragraph 11 d) is engaged. However, the evidence before me shows that the Council has delivered 79% of its housing requirement. There is no compelling evidence before me to demonstrate otherwise. As such, it is above the threshold for Paragraph 11 d) of the Framework to be engaged.
20. I have had regard to the evidence provided by the appellant which identifies how small sites can make a contribution to the required supply of housing. However, even accepting that the Government's objective is to significantly boost the supply of housing, the provision of a single dwelling would make only a small contribution towards housing supply and would not overcome the significant harms I have identified above.
21. I have also had regard to the Lawful Development Certificate¹ (LDC) which the appellant has argued represents a fallback position, however this was for an outbuilding set within an existing garden, not a dwelling. I find that a detached outbuilding in this location would not appear unexpected nor, being an outbuilding, would it represent a significant conflict with the established pattern of development referred to above. Also, an outbuilding would not result in the same general comings and goings and domestic activities associated with a new dwelling, which would be separate to No 168. Furthermore, I do not agree that it would be a conversion as a new dwelling requires planning consent as it would no longer be ancillary or incidental to No 168. Therefore, I give the LDC limited weight for the purposes of this appeal.
22. I acknowledge that a member of the appellant's family is seeking to downsize to a smaller home and be closer to family. However, I have not been provided with any evidence to demonstrate that there are no suitably sized properties within the area or that there is a need for a property to be located close by. Even if this was supplied it would unlikely be sufficient to outweigh the harms I have found.
23. I have had regard to the appellant's statement about garden size not forming a reason for refusal on a previous application for the site. However, this does not alter my own findings that the garden would not provide suitable outdoor space for future occupiers.

Conclusion

24. The proposed development conflicts with the development plan when considered as a whole, and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

A Hickey INSPECTOR

¹ Ref: 20/00190/CLPD