



Appeal Decision

Site visit made on 20 September 2022

by L Douglas BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 October 2022

Appeal Ref: APP/B1930/W/21/3288939

133A London Road, St Albans AL1 1TA

- 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 Beechwood Homes Contracting Ltd. against the decision of St Albans City Council.
 - The application Ref 5/21/1018, dated 6 April 2021, was refused by notice dated 30 September 2021.
 - The development proposed is the construction of nine apartments and two, three bedroom semi-detached houses with bike and bin stores following demolition of existing buildings, new vehicular access and associated parking and landscaping.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of the development proposed for the banner heading above from the Council's decision notice. The appellant has provided this description in the appeal form, confirming it describes the development for which planning permission is sought.
3. A legal agreement dated 16 June 2022 has been provided by the appellant as part of the appeal. The Council has confirmed this addresses its third reason for refusal.

Main Issues

4. Taking the above into account, the main issues are: i) the effect of the proposed development on the character and appearance of the area; and ii) whether the proposed development would provide acceptable living conditions for future occupants of the proposed apartments, with regard to the outlook from apartments 1, 4 and 6, and the provision of amenity space.

Reasons

Character and Appearance

5. The appeal site is a two-storey detached house set within a long plot skirted by trees. Plot sizes vary within the surrounding area, but the appeal site appears narrower than many of its near neighbouring plots. A range of building sizes and styles can be seen along London Road, often through thick boundary planting. The area is suburban in character, but large buildings containing flats are not uncommon, and it is not defined by any particular building designs or features. Development on both sides of this part of London Road contribute to

the overall character and appearance of the area, which has spacious qualities on account of the wide highway and set back positions of buildings behind boundary planting.

6. There are 4 storey blocks of flats with pitched and flat roofs to the south-east of the appeal site, a large development of 3 storey assisted living apartments to the west, and a mix of modest and substantial houses elsewhere along the road. Further to the south-east, at Magnolia Gardens and Stuart Place, a long row of detached houses has been built abutting Foxcroft Park.
7. It is proposed to demolish the existing dwelling and erect an apartment building forward of the position of the existing dwelling and a pair of semi-detached dwellings to the rear. Parking areas would be provided at the front and to the rear, and an undercroft on the south-eastern side of the proposed apartment building would provide access to the rear.
8. The proposed pair of semi-detached houses would be positioned roughly in line with the row of houses at the rear of Magnolia Gardens and Stuart Place. Those existing houses can be seen from the appeal site in restricted views between planting, beyond open rear gardens. They form a large block of dense development between London Road and Foxcroft Park contained to the south-east of 143 London Road.
9. Backland development is common in the locality and forms part of the ongoing evolution of the character of the area, with nearby examples found on the opposite side of London Road in addition to those referred to above. However, the immediate surroundings and layouts of the examples referred to by the appellant are very different to those of the proposal. The confines of the appeal site and the open nature of neighbouring rear gardens would prevent the proposed houses from comfortably integrating with their surroundings.
10. The layout of the proposed pair of semi-detached houses would be seen and experienced as a cramped and uncharacteristic addition to the rear of the appeal site from the rear of neighbouring properties, Foxcroft Park, and from within the appeal site itself. This part of the proposal would appear as an isolated and dense form of development at the rear of a relatively narrow plot, which would make the proposed houses unduly prominent between large neighbouring residential gardens.
11. In this context, they would be an odd feature of the area, dissimilar to other backland development nearby. The presence of thick boundary planting and the row of houses some distance to the south-east would not soften the impact of the proposed houses sufficiently to allow them to blend harmoniously with their surroundings. The layout of the proposed pair of semi-detached houses would therefore harm the character and appearance of the area.
12. The proposed apartment building would be of a contemporary design, formed by a series of planes and flat roofs which step back at different levels and incorporate an undercroft. This would be a similar design to the block of flats at 143 London Road, which sits comfortably alongside pitched roofed buildings, set back from the road behind thick planting.
13. The bulk, scale and massing of the proposed apartment building would be concentrated down the centre of the appeal site on account of its stepped profile. Its overall height would be lower than that of the ridge of the adjacent

house at 135 London Road and higher than that of the adjacent house at 133 London Road. Its bulk and mass above second floor level would be significantly greater than either of those buildings immediately adjacent to the appeal site, but this would be experienced along a road with a number of developments which would appear bulkier and taller than the proposed apartment building.

14. Two storeys of the proposed apartment building would occupy almost the full width of the plot, which would be no different to many neighbouring buildings. The appeal site appears narrower than its immediate neighbours, but the overall size and positioning of the proposed apartment building within its plot would not disrupt the rhythm of various development along London Road, or otherwise appear out of place.
15. In views from the street, through the access with planting proposed either side, the proposed apartment building would appear as a large, modern addition to the street. Although there do not appear to be local examples of other developments with undercrofts providing vehicular access to the rear, the undercroft would form an integrated element of the contemporary design of the proposed apartment building. This would not be out of context with its surroundings, which include large apartment buildings and houses, some of contemporary designs, set back in their plots.
16. The proposed apartment building would be set back 26m from the highway, which the proposed site plan¹ suggests would be further back than 143 London Road. This would not be easily appreciable in views from the front of the appeal site, but neither would the proposed apartment building's projection forward of the front elevations of 133 and 135 London Road. It would breach the building line north-west of 143 London Road, but not by much. It would be sited far enough back in the plot behind planting to comfortably assimilate with surrounding forms of development.
17. The proposed apartment building would not therefore be seen as an uncharacteristic feature for the area. However, the proposed layout of semi-detached houses to the rear of the proposed apartment building would be seen and experienced as a cramped form of development amongst open spaces, out of keeping with the character and appearance of the area. As a whole, the proposal would harm the character and appearance of the area, contrary to Saved Policies 69 and 70 of the St Albans District Local Plan Review (1994) (the LPR). These require, amongst other things, development to have an adequately high standard of design which takes into account its setting and the character of its surroundings to create attractive places of human scale.

Living Conditions: Outlook

18. Apartments 4 and 6 would each have 2 bedrooms. The second bedroom in each apartment would be served by a single window, shown to be frosted and fixed below 1.7m on the proposed elevation plans. I am in no doubt that it would be necessary to require the side facing window which would serve Apartment 6 to be obscure glazed and fixed shut below 1.7m in height above internal floor level. This would be to prevent any unacceptable levels of overlooking of 135 London Road, which has a number of clear glazed side facing windows.

¹ 19012-PL20-D

19. It appears unlikely that the proposed side facing window which would serve Apartment 4 would result in any unacceptable levels of overlooking of 133 London Road, were it to be clear glazed and of unrestricted opening. This is because all side facing windows of 133 London Road appear to be obscure glazed. However, I do not know the full circumstances of the rooms served by the side facing windows of 133 London Road, or the exact specifications of those windows.
20. Interested parties have submitted comments on the basis that all side facing windows proposed above ground floor level would be frosted and fixed below 1.7m. It would deprive interested parties the opportunity of consultation if I was to accept the appellant's suggestion in their appeal submissions that any of the proposed side elevation windows above ground floor level could be clear glazed and/or of unrestricted opening.
21. The proposed obscure glazing and restricted opening of the windows to serve the second bedrooms of Apartments 4 and 6 would create poor living conditions for the future occupants of those bedrooms. Each of those apartments would have limited single aspect outlook to the front or rear, although they would also have access to small balconies. As second bedrooms, it is possible that future occupants may not always use them as habitable rooms. These factors do not convince me that the overall standard of outlook for all future occupants of Apartments 4 and 6 would be acceptable.
22. It is likely that apartments of such sizes would be occupied by more than a single person, and possibly by families. Although future purchasers of the apartments would be aware of the window layouts, it would remain likely that the second bedrooms would end up being used as bedrooms. The standard of outlook for future occupants who rely on those second bedrooms would be extremely poor, and as such Apartments 4 and 6 would fail to provide acceptable living conditions for them.
23. The ground floor side elevation window which would serve the second bedroom to Apartment 1 would not need to be obscure glazed or fixed shut, as intervening boundary treatment would prevent any overlooking of the neighbouring house. The distance between that window and the boundary would be short, but sufficient to provide the minimal acceptable overall level of outlook for future occupants of that apartment.
24. I have been referred to schemes at different sites where the Council has granted planning permission for dwellings with bedrooms which are required by condition to have obscure glazed windows which are fixed shut up to 1.7m in height from finished floor levels, or high level roof lights. It has also been suggested that this is not an uncommon arrangement in urban areas. Be that as it may, it is my opinion that the use of such windows to serve the second bedrooms of proposed Apartments 4 and 6 would create unacceptable living conditions for future occupants on account of the overall poor outlook from those dwellings. Examples of similar arrangements elsewhere do not convince me it would be appropriate to encourage substandard living conditions in this instance.
25. Although the proposal would provide acceptable living conditions for future occupants of Apartment 1, it would fail to provide acceptable living conditions for the future occupants of Apartments 4 and 6 with regard to outlook. This

would be contrary to Saved Policy 70 of the LPR, which requires, amongst other things, buildings to create safe, attractive spaces.

Living Conditions: Amenity Space

26. According to the proposed plans, five of the proposed apartments would have balconies varying between 3.2 – 24.3 sqm². The appellant has also claimed the proposed apartments would be served by 211 sqm or 225 sqm of communal amenity space, but this has not been identified on any plans. The Council suggests land which could comprise useable communal amenity space would amount to approximately 113 sqm.
27. In the absence of detailed information from the main parties, I am unable to conclude how much communal amenity space would be provided. Based on the proposed plans³, useable space for such purposes would appear to be limited. This would be on account of the proximity of lawned areas to the rear elevation windows/doors of Apartment 2 and areas given over to vehicle hard surfacing. The strip of lawned area leading to the gate on the rear boundary would not be useable as communal amenity space due to its size and purpose as a pedestrian access route.
28. Part ix of Saved Policy 70 of the LPR sets out that private gardens should reflect the number of persons for which proposed dwellings have been designed, and that gardens may be smaller where there is public open space nearby. The policy also states it will normally be appropriate to provide communally shared amenity space in the case of flats and refers to guidance in Design Advice Leaflet No. 1 (1998). The guidance states that it is preferable for 20 sqm of amenity space to be provided for the first bedroom of each proposed flat and 10 sqm for additional bedrooms. The overall aim of this part of Saved Policy 70 appears to be to ensure acceptable living conditions would be provided for future occupants of proposed developments.
29. The appeal site abuts Foxcroft Park, which is a large area of public open space within a short walking distance from the appeal site by public roads. An existing gate provides direct access from the rear of the appeal site into Foxcroft Park too, which has existed for 40 years⁴. Although the appellant has suggested the proposed retention of the existing gate would be secured through a legal agreement, the legal agreement provided makes no provisions in this regard.
30. Amenity space to serve the proposed apartments within the appeal site would appear to fall significantly short of that recommended in Design Leaflet No.1. However, as Foxcroft Park is easily accessible from the appeal site, and as some level of communal amenity space could be provided within the appeal site in addition to the proposed balconies, I am satisfied that the proposal could provide acceptable living conditions for future occupants with regard to amenity space in accordance with the aims of Saved Policy 70.

² Proposed Apartment Floor Plans 19012-PL21-C, compared to Table 4 of the appellant's Statement of Case which incorrectly suggests Apartment 5 would be served by a balcony measuring 3.1 sqm in area.

³ Proposed site plan 19012-PL20-D and Sketch Landscape Plan No.1 OS 1928-19.3-A

⁴ As confirmed in the statutory declaration of Christopher Holahan dated 25 November 2021

Other Matters

31. The Council is unable to demonstrate a five year housing land supply. Where this is the case, paragraph 11 of the Framework advises that the policies which are most important for determining the application should be considered out-of-date and 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.
32. I have identified harm which would be caused to the character and appearance of the area by the proposed pair of semi-detached houses. This harm would be appreciable from the rear of neighbouring properties, but not from London Road. The level of harm would be modest on account of the extent of the views the semi-detached houses would be experienced in. The harm would, however, be long-lasting. I therefore assign moderate weight to that harm.
33. I have also found that proposed Apartments 4 and 6 would fail to provide acceptable living conditions for future occupants, on account of extremely poor outlook. Although that harm would only affect the future occupants of two apartments, it would significantly restrict their quality of life by imposing unacceptable living conditions on them. The significant level of the harm which would be caused to the living conditions of future occupants leads me to attach substantial weight to that harm.
34. The proposal would provide a net increase of 10 dwellings, with a mix of dwelling sizes to reflect the district's needs, in a sustainable and accessible residential location close to the city centre and public open space. The proposed development would incorporate sustainable design features, including air source heat pumps and electric vehicle charging points, and would provide an opportunity for biodiversity improvements. Jobs would be provided through the construction process and local businesses and services would benefit from the economic activity associated with those workers and future occupants. The local community would also benefit from the new homes bonus and tax revenue which would result from the proposed dwellings. Financial contributions secured through the legal agreement would contribute towards the improvement of local services.
35. These social, environmental and economic benefits would be provided against a backdrop of a 2.4 year housing land supply in a district which is constrained by Green Belt. Taken together, all of these benefits attract significant weight in favour of the proposal.
36. Paragraph 60 of the Framework refers to the Government's objective of significantly boosting the supply of homes. Paragraph 81 advises that significant weight should be placed on the need to support economic growth and productivity. This is to be read in the context of building a strong and competitive economy which drives productivity and innovation. Although the proposal would create the economic benefits outlined above, they would not make the same contribution to a strong and competitive economy that commercial or industrial development would, which I take to be the main focus of chapter 6 of the Framework.
37. Paragraph 124 of the Framework sets out that planning decisions should support development that makes an efficient use of land. This needs to take into account, amongst other things, the desirability of maintaining an area's

prevailing character and setting, including residential gardens, and the importance of securing well-designed, attractive and healthy places. Paragraph 125 advises that where there is a shortage of land for meeting identified housing needs, it is especially important that planning decisions avoid homes being built at low densities and ensure developments make optimal use of the potential of each site.

38. Paragraph 130 of the Framework explains that planning decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive, sympathetic to local character, optimise the potential of sites to accommodate an appropriate amount and mix of development, and create places which promote health and well-being, with a high standard of amenity for future users, amongst other things.
39. Paragraph 38 of the Framework encourages decision-makers to seek to approve applications for sustainable development where possible; however, as I have found the proposal would result in a modest level of harm to the character and appearance of the area and a significant level of harm to the living conditions of future occupants, it would not constitute sustainable development.
40. Taking all of the above into account, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. The proposal would not therefore constitute sustainable development for which the presumption in favour, set out in the Framework, applies.

Conclusion

41. For the reasons given above I conclude that the proposal would fail to accord with the development plan and there are no material considerations, including the Framework, that would indicate planning permission should otherwise be granted. The appeal should therefore be dismissed.

L Douglas

INSPECTOR