



Appeal Decision

Site visit made on 30 September 2022

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 October 2022

Appeal Ref: APP/B1930/W/22/3296096

Land rear of 15,17 and 19 Tuffnells Way, Harpenden AL5 3HJ

- 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 Jarvis Homes Ltd against the decision of St Albans City & District Council.
 - The application Ref 5/21/3107, dated 2 November 2021, was refused by notice dated 19 January 2022.
 - The development proposed is erection of 3 detached dwellings.
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Decision

1. The appeal is allowed and planning permission is granted for erection of 3 detached dwellings at land rear of 15,17 and 19 Tuffnells Way, Harpenden AL5 3HJ in accordance with the terms of the application, 5/21/3107, dated 2 November 2021, and the plans submitted with it, subject to the conditions set out in the schedule attached.

Application for costs

2. An application for an award of costs has been made by Jarvis Homes Ltd against St Albans City and District Council. This is the subject of a separate decision.

Main Issues

3. The main issues are the effect of the proposed development on i) the character of the surrounding area; and ii) on highway safety.

Reasons

Character

4. The appeal site is broadly rectangular in shape comprising the rear part of the gardens of Nos.15 to 19 Tuffnells Way. It is proposed to construct 3no. detached houses on the site that would continue Osprey Close, a small cul-de-sac of four detached houses accessed from Wood End Road.
5. Wood End Road and Tuffnells Way have a linear arrangement of development and comprise large, detached houses, set back from the road with generous plots and gardens. The front boundaries of houses are typically formed by hedges or low walls and the plot sizes and spacing between houses means that trees and landscaping in the front and rear gardens contribute to a verdant and established residential character.

6. I observed that Osprey Close itself, built in two phases, is different in character to its surroundings, comprising modern, higher density development. The cul-de-sac is accessed adjacent to No.21 Wood End Road with No.1 and 2 Osprey Close facing westward and No.3 and 4 (further to the north) facing southward. Although all have driveway parking, the houses are set close to the back edge of the cul-de-sac and have a tighter, less spacious arrangement than the surrounding residential area I describe above.
7. The proposed houses would be located to the east of No.3 Osprey Close, facing southward. The existing building line of No.3 and No.4 Osprey Close (No.3 and No.4) is staggered and the proposed houses would continue this general frontage of development albeit set further back and angled slightly on an east-west axis.
8. The proposed plot widths would range from 13m to 13.9m and the houses would take up much of that width, set off their side boundaries by around 1m. The plot widths would be narrower than the immediate neighbours at No.3 and No.4 who have plot widths of over 17m and have greater distances to their side boundaries. However, the proposed houses would only be visible from Osprey Close itself and the difference in plot widths would not be particularly legible because of the proposed staggered building line and the orientation of the houses. This means that the cul-de-sac would not be read as a linear form of development where such differences in width would be more apparent. Further, whilst I observed that spacious plots are characteristic of the surrounding residential area, plot widths are not uniform and there is a reasonable degree of variation particularly where more recent houses have been built.
9. As described above, generous plots, which includes large gardens, is characteristic of Wood End Road and the wider residential area. The proposed gardens would be smaller than most in the surrounding area, but would be over 200sqm in size, which is broadly comparable in size to those of their neighbours on Osprey Close, notably at Nos. 1 and 2 (albeit I note that the garden area of No.2 has been extended). The gardens allow sufficient space for those trees with greater amenity value (on the northern boundary) to be retained and further tree planting and landscaping accommodated.
10. Although less spacious in character than the wider area, I find the proposed development would nonetheless assimilate well with the existing pattern or grain of the existing houses in Osprey Close. It would extend the small knot of existing development, without causing harm to the overall spacious and verdant character of the surrounding area.
11. The Council has drawn my attention to a proposal for the replacement of 2no. houses with 4no. houses at No.18s and 20 Wood End Road that was dismissed at appeal (APP/B1930/W/20/3257842). I have not been provided with any further details in respect of this appeal, but I note the Inspector's conclusions that the proposal would result in noticeably narrower plots than other development in the vicinity. I saw on my site visit that 3no. houses are now under construction on this site. As I describe above, Wood End Road is more spacious in character with a linear arrangement of houses and legible plot widths. For the reasons I have already given, Osprey Close is different in character and I do not therefore find the development to which the Council refer to be directly comparable to the appeal before me.

12. On the first main issue I therefore conclude that the proposed development would sit comfortably in the context of Osprey Close and would not cause harm to the character of the area. Consequently, there would be no conflict with Policies 69 and 70 of the St Albans District Local Plan Review, 1994 (LP) which, amongst other things, seek to ensure that developments are of a high standard of design, that take account of the character of its surroundings.

Highway Safety

13. The County Highways Authority raised no objection to the proposal but there are local concerns about parking and its effect on highway safety.
14. LP Policy 40 requires that a four or more bedroom house should have 3no. allocated and 0.5no. unallocated car parking spaces. When applying this standard to the appeal proposal (for three 4-bedroom houses) a total of 11no. car parking spaces would be required. The proposed Site Layout shows that proposed Plot 5 would have two allocated car parking spaces and Plots 6 and 7 would have two car parking spaces, plus an integral garage. This equates to 9no. car parking spaces (2.6 per dwelling) a shortfall of 3no. spaces against LP policy. LP Policy 39, however, states that requirements may be adjusted to reflect the circumstances of individual developments. Further, the Council's more recent *Revised Parking Policies and Standards* (2002) notes that schemes slightly below standard may be acceptable.
15. The guidance at paragraph 107 of the National Planning Policy Framework (the Framework) is that the accessibility of the development, availability and opportunities for public transport and local car ownership, should be used to set local parking standards. The evidence provided by the appellant is that, based on 2011 Census data, households in this part of St Albans have an average of 1.9 cars, which is below the 2.6 car parking spaces per dwelling proposed. I recognise that the site is around 600m from the nearest bus stop, well beyond the 400m accepted by the Chartered Institution of Highways and Transportation as a reasonable walking distance. The site is, however, within an established residential area with access to public transport to Harpenden town centre and walking distance to a local school. I do not therefore find the site to be in an inherently unsustainable location. Consequently, on balance I find the proposed car parking provision sufficient to satisfy the likely demand from the households.
16. Notwithstanding this, a parking 'stress' survey has been undertaken by the appellant which included Osprey Close itself, Wood End Hill, Wood End Road and Yeoman Avenue. This showed that during the night (00:30 to 05:30) when parking demand is reasonably expected to be at its highest, average parking stress was observed at only 8% with a total of 73no. spare spaces. This absence of parking 'stress' is consistent with my observations on site. Although visiting at a different time of day (in the morning) there was very little on street parking in the surrounding roads, except commercial vehicles associated with building work at No.18 to 20 Wood End Road. I observed no on-street parking at all on Osprey Close.
17. Although I accept that Osprey Close is fairly narrow, with no formal visitor parking, there would be additional, limited opportunities for informal parking within the cul-de-sac and even if overspill on-street parking did result to neighbouring roads, I see no significant highway safety issue arising here. Further, whilst inevitably there is an increase in on-street parking during drop

off and pick up times associated with a school; the proposals would not contribute to that particular parking pressure.

18. I conclude on the second main issue that adequate parking would be provided and the proposed development would not cause harm to highway safety by reason of displaced car parking on the adjoining roads. The proposals would therefore comply with LP policies 39 and 40 which together allow for lower than standard parking provision.

Other Matters

19. I observed on my site visit that there are windows to an open plan kitchen/dining room on the rear elevation of No.3 Osprey Close (No.3) that would have oblique views to the rear of Plot 5 which would be located around 1.2m from the common boundary. Plot 5 would be sited so that its front elevation broadly aligns with the rear elevation of No.3. Because of this arrangement, Plot 5 would be clearly visible from the rear of No.3 but the footprint has been stepped away from the boundary such that it would not appear overbearing or cause significant harm to outlook. No.3 would retain a predominantly open outlook to the rear, over its garden.
20. The side window of a rear projection (a dining room) of No.3 would directly face Plot 5 but would be a reasonable distance away (around 8m) and the room is dual aspect, with a second window on the rear elevation. The side window faces within 90 degrees of due south and was therefore assessed by the Building Research Establishment (BRE) on behalf of the appellant. This showed the loss of annual sunlight to this window would not be more than 4%, meeting BRE guidelines. I accept that there would be a loss of sunlight, but I do not find this would be so significant to cause harm to the living conditions of the occupiers of No.3.
21. Various concerns have been raised in respect of the width of Osprey Close, the lack of any pedestrian footways and increased vehicle movements, particularly during construction of the development. However, the County Highways Authority have found that traffic generation associated with the proposed houses would not be significant and visibility would be acceptable for pedestrians and vehicles. I have no reason to form a different view. Although there would be disturbance during construction, I have no evidence before me that there would be a risk to the safety of existing residents of Osprey Close and given the nature of the cul-de-sac, I would reasonably expect all drivers to travel at low speed with due care and attention.
22. Taking account of the evidence before me, I have not identified other matters of such significance so as to outweigh my conclusions on the main issues.

Conditions

23. I have had regard to the list of suggested conditions provided by the Council. Where necessary, I have amended their wording to ensure they meet the relevant tests for conditions set out in the Framework.
24. In addition to the statutory time limit for implementation, a condition setting out the approved plans is necessary to provide certainty. As Finished Floor Levels are shown on the proposed Site Layout, a pre-commencement condition requiring submission of drawings showing existing levels and proposed slab levels is not considered necessary.

25. Details of external materials and proposed hard and soft landscaping (including maintenance) are required to ensure a satisfactory appearance. A condition requiring the provision of car parking spaces and their subsequent retention is necessary in the interests of highway safety. Installation of sprinkler systems is necessary to ensure the safety of occupants. The erection of a close boarded timber fence along the west, north and east boundaries and installation of obscured glazed windows are required to maintain privacy.
26. It is further necessary to secure the implementation of tree protection measures and ecological mitigation and enhancement measures, to protect and enhance the natural environment.
27. The appeal site has been assessed in the Preliminary Ecological Appraisal of September 2021 as having negligible value for protected and notable wildlife but nonetheless recommends mitigation and enhancement, including integrated bat boxes, native planting and hedgehog fence holes. I note the consultation response from Hertfordshire Ecology that the existing gardens contain a number of trees that would be removed, including native species and fruit trees. Replacement trees are however proposed and the number and species would be controlled by the landscaping condition suggested by the Council.
28. Having regard to the guidance at paragraph 180 d) of the Framework that opportunities to improve biodiversity in and around development should be integrated as part of their design, especially where this can secure measurable net gain for biodiversity, I am satisfied that the suggested landscaping and ecological conditions are sufficient to secure an enhancement to biodiversity. A further pre-commencement condition is not therefore necessary, as suggested by the Council, requiring a separate Landscape and Ecological Management Plan.
29. Paragraph 54 of the Framework states that planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Planning Practice Guidance also advises that conditions restricting the future exercise of permitted development rights may not pass the test of reasonableness or necessity. The Council has suggested a condition that removes various permitted development rights afforded to the houses permitted. Save reference to retaining control of the development in the interests of residential amenity, I have been provided with no justification for why such a wide ranging removal of permitted development rights would be necessary. I am not at all persuaded that the proposed development would only be acceptable should this condition be imposed and consequently the suggested condition has been omitted.

Conclusion

30. For the reasons given above, I conclude that the appeal should be allowed.

R. Jones

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: DNG No's. P/21/01-4, P/21/01-2, P/21/01-1, P/21/01-3 and Site Location Plan.
3. Prior to commencement of above ground construction works, samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been approved in writing by the Local Planning Authority. Sample materials should be made available on site when discharging this condition. Development shall be carried out in accordance with the approved details.
4. The window(s) to be created in the first floor side elevations, apart from those serving Bed 2 of Plot 7 and Bed 3 of Plot 6 shall be glazed in obscure glass and shall be non-opening below a height of 1.7 metres taken from internal finished floor level. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.
5. The development shall not be occupied until all car parking spaces have been constructed, surfaced and permanently marked out within the site in accordance with details submitted to and approved in writing by the Local Planning Authority. Such spaces shall be maintained as a permanent ancillary to the development and shall be used for no other purpose.
6. Prior to commencement of above ground construction works, details of both hard and soft landscape works shall have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include (a) proposed finished levels and contours; (b) means of enclosure; (c) car parking layouts; (d) other vehicles and pedestrian access and circulation areas; (e) hard surfacing materials; (f) proposed and existing functional services above and below ground (e.g., drainage, power, communications cables, pipelines etc, indicating lines manholes, supports etc.); (g) existing trees to be retained; (h) existing hedgerows to be retained.
7. Soft landscape works required to be submitted under Condition 6 shall include planting plans; written specifications (including cultivation and other operations associated with the plant and grass establishments); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; an implementation programme should be submitted.
8. All hard and soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority.
9. If within a period of five years from the date of the planting of any tree or plant, that tree or plant, or any tree or plant planted in replacement for it is removed, uprooted or destroyed or dies or becomes seriously damaged or defective, another tree or plant of the same species and size as that originally planted shall be planted at the same place, unless otherwise the Local Planning Authority gives its written consent to any variation. The tree

or plant shall be planted within [3] months of felling/dying or if this period does not fall within the planting season by 31 January next.

10. All recommendations within the submitted Tree Report (S287-J4-IA-1) should be implemented and followed during all construction phases. No works shall take place on site until the recommended protection measures to BS5387 standard are in place on site.
11. Prior to the bringing into use of any part of the development hereby approved, a 1.8m high close boarded fence shall be erected along the west, north and east boundaries.
12. Prior to the first occupation/use of the development hereby permitted, a sprinkler system in accordance with BS 9991: 2014 or BS EN 12845 shall be installed and fitted throughout the proposed development.
13. The development hereby permitted shall be carried in accordance with the recommended ecological mitigation and enhancement measures set out in the Preliminary Ecological Appraisal (report date September 2021) by Sound Ecology.