



Appeal Decision

Site visit made on 28 November 2022

by Paul Thompson DipTRP MAUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2022

Appeal Ref: APP/J1915/W/22/3291620

Land Adjacent to 24, Ashdale, Bishops Stortford CM23 4EA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr David Milne (Rivertree Developments Ltd) against East Hertfordshire District Council.
 - The application Ref 3/21/2196/FUL, is dated 20 August 2021.
 - The development proposed is construction of 2 bed 3 person dwelling.
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Decision

1. The appeal is dismissed and planning permission for construction of 2 bed 3 person dwelling is refused.

Procedural Matters

2. The appeal is against the Council's failure to determine an application for planning permission. The Council's Statement of Case outlines the reasons it considers the proposal would be unacceptable, but these are not formal determinations of the Council as the jurisdiction to determine the application transferred from it upon valid receipt of the appeal. However, the Council has set out that it would have refused the application had it been empowered to do so. I have taken these reasons into account in determining the main issues.
3. I have been referred to Policy HOU11 of the East Herts District Plan 2018 (EHDP), which relates to *Extensions and Alterations to Dwellings*, but the proposal is not for the extension of an existing dwelling, it relates to a new dwelling. It is therefore not relevant to my consideration of the appeal.

Main Issues

4. The main issues are the effect of the proposed development on the living conditions of the occupiers of 48 The Ridings, with regard to outlook; and the character and appearance of the site and its surroundings.

Reasons

Living Conditions

5. The proposal concerns the garden of an end of terrace dwelling, situated at the bottom of a short cul-de-sac the residential street 'Ashdale'. Where dwellings are arranged perpendicular to one another they are generally separated by generous gardens. However, the side garden of 24 Ashdale contributes to the separation and relief from the flank wall of No 24 when viewed from 48 The Ridings and its relatively shallow garden.

6. Some space would be retained between the new dwelling and the boundary of No 48, but the proposal would, nevertheless, extend built form to within relatively close proximity of the boundary. Moreover, the flank wall of the proposal would be a substantial area of brickwork that would appear oppressive, overbearing and create an enclosing effect when viewed from No 48 and its rear garden.
7. While I note the occupiers of No 48 have not objected to the proposal, the absence of such concerns is not a consideration that outweighs the harm I have identified, as I am also mindful of the effect on future occupiers.
8. Accordingly, the proposed development would result in a significantly harmful effect on the living conditions of the occupiers of 48 The Ridings, with regard to outlook. Hence, the proposal would not accord with the aims of EHDP Policy DES4, regarding such matters.

Character and Appearance

9. The dwellings in Ashdale are predominantly arranged in terraces of varied length and appearance. As shown on the site location plan, they are also set close to one another, so side gardens are not commonplace and generally amount to narrow spaces. The appeal site remains one of the only exceptions, as the plot opposite, at No 23a, is now occupied by a dwelling.
10. The side garden of No 24 provides space between it and the properties to the east but, due to its screening, private use, and the layout of other dwellings nearby, it does not constitute green space capable of performing any local amenity function. Similarly, although the grassed area to its frontage is visible from the path leading east, through to The Ridings, it is not prominent within views from elsewhere in Ashdale. In this particular context, the garden of No 24 is therefore not critical to the urban grain of this part of Ashdale or the appearance created by the relationship between dwellings and garden spaces.
11. The loss of the side and front garden of No 24 to provide the new dwelling and its parking would alter the appearance of this particular part of Ashdale. However, as reflected by the application drawings, the proposal would continue the appearance and layout of the terrace of properties and their parking. Moreover, it may well have been the original intention of the developer for the gardens of Nos 23 and 24 to remain undeveloped but, as referred to above, a dwelling has been built at 23a and parking arranged to its frontage, as in the remainder of this part of Ashdale. The proposal would be similar in appearance and its parking would be set against the backdrop of a boundary fence.
12. For the above reasons, the proposed development would not have a harmful effect on the character and appearance of the site or its surroundings. Hence, it would meet the expectations of EHDP Policy DES4 to be of a high standard of design and layout to reflect and promote local distinctiveness.

Planning Balance and Conclusion

13. While the Local Plan predates the current National Planning Policy Framework (the Framework), I am satisfied Policy DES4 of the EHDP is consistent with its aims regarding design and the expectations for living conditions for existing and future occupiers of developments. The identified conflict of the proposal with this policy is therefore a significant concern.

14. I have not been referred to a lack of deliverable housing sites in the district, but the Government is seeking to significantly boost the supply of housing. The proposal would contribute to supply in the district and greater choice. It would also be a small site that the Framework recognises as more likely to be built relatively quickly. Nevertheless, the magnitude of the contribution to housing supply in the district would be modest, so would attract limited weight.
15. While the proposal may result in a more efficient use of the site, for the reasons outlined in the first main issue, it would not safeguard and improve this particular environment, a key component of the Framework's objective of making effective use of land. It would also not meet the Framework's definition of previously developed land, as it constitutes a garden within a built-up area.
16. The facilities and services in Bishop's Stortford can be reached by various means of transport, including the railway station for onward journeys to London and other major centres nearby. However, I ascribe negligible additional benefit in respect of this, as it equates to an absence of harm.
17. This leads me to an overall conclusion that the appeal scheme would not accord with the development plan, when considered as a whole, and I find that the adverse impacts of the proposal are matters of significant weight against the grant of planning permission that outweigh the stated benefits.
18. The proposed development would be contrary to the development plan. There are no other material considerations that would indicate that the proposal should be determined other than in accordance with the development plan. Accordingly, for the reasons given, I conclude that the appeal should be dismissed and planning permission is therefore refused for the appeal scheme.

Paul Thompson

INSPECTOR