



Appeal Decision

Site visit made on 3 October 2023

by Nick Bowden BA(Hons) DIP TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 October 2023

Appeal Ref: APP/B1930/W/23/3320653

1 Otterton Close, Harpenden, Hertfordshire AL5 3BE

- 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 Alexander Castel against the decision of St Albans City and District Council.
 - The application Ref 5/2023/0032, dated 17 January 2023, was refused by notice dated 15 March 2023.
 - The development proposed is a single storey side extension with rooflights and new boundary fence.
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Decision

1. The appeal is allowed and planning permission is granted for a single storey side extension with rooflights and new boundary fence at 1 Otterton Close, Harpenden, Hertfordshire AL5 3BE in accordance with the terms of the application, Ref 5/2023/0032, dated 17 January 2023, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development shall be carried out in accordance with the following approved plans: Site Location Plan, MMA. 478, MB.1, MP.2444, MP.244474.
 - 3) The materials to be used in the external construction of the extension shall match those of the existing building.
 - 4) The fence line shall not encroach on the visibility splay shown on plan MP.2444. The splay shall thereafter be retained at all times free from any obstruction above 600mm from the level of the adjacent highway carriageway.

Preliminary Matters

2. The extension proposed is not in dispute between the parties and I concur with this assessment. The main issues are therefore limited to those noted below.

Main Issues

3. The main issues are:
 - a) whether the area of land which the fence seeks to enclose is amenity land, and
 - b) if the fence would detract from the spaciousness of the street scene and visual amenity of the area.

Reasons

Amenity land

4. The appeal site comprises one of a two pairs of semi-detached houses which, along with numbers 20, 20a and 20b, primarily address Harpenden Rise. Number 1 Otterton Close is set on the corner and has a dual aspect with its main entrance door addressing Otterton Close.
5. The aspect addressing Harpenden Rise features a driveway whilst the aspect addressing Otterton Close features an open front, or side, garden. Given the style and dual aspect nature of the house, these could be viewed as either the front or side elevations. Nevertheless, the grassed area addressing Otterton Close reads precisely as that; as a garden. It is similar to other open front gardens along Otterton Close which commonly feature grassed lawns, small trees and ornamental planting. Number 1 Otterton Close is only different to the majority of other homes in the cul-de-sac because of its position on a corner.
6. The front, or side garden, as the case may be, that addresses Otterton Close does continue beyond a 'normal' front garden insofar as it extends to the south-west, beyond the facing elevation of the house itself. It reaches a parking area for other homes. Whilst I appreciate this could create an impression of it being disassociated with the main dwelling; it does not, consequently, make it amenity land.
7. As with any garden that addresses the street frontage, it may be used less intensively than a more private one. However, the garden here is clearly maintained as such and its function is not materially different to any other typical garden that addresses a street.
8. I have not been provided with any evidence to suggest that this area is, or ever was intended to be, amenity land in a manner that would be any different to any other domestic garden. I have noted that the planning permission for this estate of houses restricted the erection of fencing with deemed permission along street frontages. The removal of these rights does not infer that the land in question is amenity land.
9. I consider the layout of the land to be consistent with that of a front garden and the ownership falls within that of the appellant. The use and function of the land appears consistent with that of a garden, rather than amenity land as it is maintained and used by the appellant¹.
10. I have considered the comments related to defining the curtilage or planning unit for 1 Otterton Close. However, these arguments do not need rehearsal considering that the area of land is part of the garden to 1 Otterton Close. As a matter of fact and degree I therefore conclude the land is not amenity land.

Street scene

11. The area in the vicinity is predominantly a mix of older terraces and semi-detached houses, many of the older homes have the front doors almost on the street, being recessed from the pavement by no more than a metre in many instances. There is also modern development, such as the estate that the

¹ *Sutcliffe v Calderdale BC* [1983]

appeal site forms part of. The side flank walls, fences or garages often abut the highway in all styles of houses.

12. Overall, this does not provide a particularly spacious layout. It is not an environment that is devoid of any structures being on, or in very close proximity to surrounding roads.
13. The proposed fence would enlarge the rear garden and advance the line of fencing towards its boundary with the highway. The position of the fence is such that it would retain a narrow strip of grass between it and the road. It would be more prominent in the street scene but would not enclose it in any way that would be harmful to visual amenity.
14. The development would not be harmful to the street scene and therefore complies with Policies ESD1 and ESD2 of the Harpenden Neighbour Plan 2019, Policies 69, 72 and 75 of the St Albans District Local Plan Review 1994 and the National Planning Policy Framework. These policies require development to maintain or enhance the character and appearance of the area.

Conditions

15. I agree with the Council's suggested conditions including time limit and adherence to the approved plans for certainty. Matching materials ensure the extension will integrate with the existing dwelling and surrounding area. I consider the maintenance of the visibility splay from the existing parking spaces to be important for highway safety, although I have modified this condition to reflect that these spaces are existing.

Other Matters

16. An element of the Council's reason for refusal relates to its consideration that the development was not a 'householder application' within the definition given at Article 2 of the Town and Country Planning (Development Management Procedure) (England) Order 2015. As I have found that the fence the subject of this appeal is situated within the garden to 1 Otterton Close, and is not amenity land, I have not considered this matter any further.

Conclusion

17. For the reasons given above I conclude that the fence would be located within the garden to 1 Otterton Close and would not be detrimental to the street scene. The appeal should be allowed.

Nick Bowden

INSPECTOR