



Appeal Decision

Site visit made on 9 November 2023

by E Catcheside BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/B1930/W/22/3312779

14 Tippendell Lane, Chiswell Green, St Albans AL2 3HL

- 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 and Mrs Ross Greenhalgh against the decision of St Albans City & District Council.
 - The application Ref 5/21/3371, dated 1 December 2021, was refused by notice dated 21 June 2022.
 - The development proposed is demolition of existing dormer bungalow and construction of replacement detached house.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing dormer bungalow and construction of replacement detached house at 14 Tippendell Lane, Chiswell Green, St Albans AL2 3HL in accordance with the terms of the application, Ref 5/21/3371, dated 1 December 2021, subject to the conditions set out in the attached schedule.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupants of 16 Tippendell Lane, with particular regard to outlook, daylight and sunlight.

Reasons

3. The appeal property is a detached chalet-style bungalow, with accommodation on the ground floor and in the loft. It lies adjacent to 16 Tippendell Lane, which is also a chalet-style bungalow situated on slightly lower ground. No 16 has a window on the ground floor side elevation facing the appeal site. The evidence confirms that the window serves a dining room with conjoined lounge.
4. I observed the relationship between the appeal property and the side window of No 16 on my site visit. The outlook from the window is currently towards the side elevation of the appeal property and the boundary fencing between the two dwellings, both of which lie close to the window. Photographic evidence included with the appeal documentation shows that, whilst some upward views of the sky are available when stood close to the side window, those views are largely obscured by the eaves and roof of the appeal property. The outlook from the window is therefore poor in the current scenario.
5. The proposal would replace No 14 with a two-storey dwelling. Therefore, views from the side window of No 16 would be towards the taller and largely blank brick side wall of the new dwelling, with some upward views towards the eaves and a dormer window, and the sky beyond. Consequently, it is likely that the

proposed development would reduce views of the sky over and above the existing scenario. However, given views of the sky are currently very limited, and the outlook from the window is already poor, the effect of the development on outlook would be very limited and would not cause any significant additional harm.

6. The orientation of the property is such that No 16's side window receives most direct sunlight during the afternoon and early evening. Notwithstanding this, the amount of both sunlight and daylight reaching the window is largely obscured by the appeal property, which sits close to and at a higher level than No 16. At the time of my site visit, which took place on a reasonably sunny and bright day, I observed that the space between the dwellings was relatively dark and devoid of light compared to the areas to the front and rear of the dwellings. Accordingly, and notwithstanding that the proposal would add bulk, mass and height to the appeal site, it would not cause a deterioration of daylight and sunlight that would be significant enough to cause harm to the living conditions of the occupants of No 16.
7. Moreover, the evidence shows that there is a second source of daylight and sunlight to No 16's dining room, via the rear doors to the conjoined lounge. Notwithstanding that daylight and sunlight through the doors is obscured by a conservatory, the doors are orientated to receive good levels of both sunlight and daylight throughout the day and at all times of the year. Given there would be no loss of daylight or sunlight to the rear doors of No 16 as a result of the proposal, these doors would continue to provide a principal source of natural light to the internal living space.
8. In coming to this view, I have taken account of representations made about the 'Right to Light'. However, the Planning Practice Guidance (PPG) makes it clear that planning is concerned with land use in the public interest, so that the protection of purely private interests such as the loss of private rights to light could not be a material consideration. Therefore, whilst I have considered the effect of the proposal on the living conditions of the occupants of No 16, any legal rights over and above that have not been determinative to my decision.
9. The development would increase the number of windows on the rear elevation of the proposed dwelling, including on the first floor. This would enable additional opportunities for overlooking across the rear gardens of neighbouring properties. However, mutual overlooking is common in the locality and, given the size of the gardens and the separation distance between the dwellings, any additional overlooking would not cause material harm to the living conditions of neighbours.
10. I conclude that the proposal would safeguard the living conditions of the occupants of 16 Tippendell Lane, with particular regard to outlook and loss of daylight and sunlight. It would therefore be in accordance with Policies 69 and 70 of the St Albans Local Plan Review 1994 (LP), and the National Planning Policy Framework (the Framework) which, taken together and amongst other things, expect development to be of an appropriate scale to its surroundings and to protect the living conditions of neighbours.
11. In its appeal statement, the Council also referred to Policy 72 of the LP, which relates to extensions to buildings. I have not found this policy to be determinative in my consideration of the appeal, which is for a replacement dwelling, rather than an extension to an existing building.

Other Matters

12. The proposed dwelling would be larger than the existing dwelling but would maintain adequate separation distances between adjacent properties; and it would be of a similar height to 10 Tippendell Lane. Consequently, the Council has not identified any harm in relation to the effect of the proposal on the character and appearance of the area. From the evidence, and my own observations, I have no reason to take a different view on this matter.

Planning Balance

13. The evidence indicates that the Council cannot currently demonstrate a five-year supply of deliverable housing sites. In these circumstances, paragraph 11(d) of the Framework is engaged. The site does not fall within the definition of areas or assets that are of particular importance as identified in footnote 7 of the Framework and, therefore, these designations do not provide a clear reason for dismissing the appeal in accordance with paragraph 11(d)(i). Consequently, the appeal falls to be considered against paragraph 11(d)(ii).
14. I have found the development would be in accordance with the Framework in respect of its effect on the living conditions of the occupants of No 16. The development would also provide a replacement dwelling, which would be larger than the existing property and would include an additional bedroom. It would therefore make a contribution, albeit very minor, to local housing needs. I have not identified any material harms that would arise as a result of the proposal.
15. Consequently, there are no adverse impacts of granting permission that would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework, when read as a whole. The proposal therefore benefits from the presumption in favour of sustainable development.

Conditions

16. The Council has provided a list of suggested conditions, which I have considered against the tests set out in paragraph 56 of the Framework and the PPG. Where appropriate and necessary, I have adjusted the wording of the conditions to improve precision and enforceability, and to prevent unnecessary duplication.
17. In addition to the standard time limit condition, I have included a condition to define the permitted drawings to provide certainty.
18. A pre-commencement condition is required to secure details of final levels. This condition is necessary to ensure the development is not built to levels that would harm the living conditions of neighbours or local character.
19. I have included conditions requiring the submission of samples and details of external materials, as well as details of hard and soft landscaping. These details are required to protect the character and appearance of the area.
20. A condition has also been imposed to secure obscured glazing to the dormer windows in the side elevations of the dwelling. This condition is required to protect the privacy of the occupants of 10 and 16 Tippendell Lane.
21. The Council suggested two conditions are necessary to secure the provision of the proposed vehicular access prior to the occupation of the development, along with details about the dimensions and details of dropped kerbs and

visibility splays. However, the evidence indicates that the proposed access arrangements would include a new dropped kerb from the highway and access across a public footway, which would require approval under a separate regime. As there is already a well-established vehicular access to the site and an existing dropped kerb that could serve the development safely, the proposed vehicular access conditions are not necessary.

22. The Council suggested that some permitted development rights should be removed through a condition to prohibit the future enlargement of the dwelling. However, the site does not fall within an area that has any specific statutory protection and is not unusually sensitive. Therefore, I have not included this condition in my decision as it would not be necessary or reasonable.

Conclusion

23. The development is in accordance with the development plan, when read as a whole. There are no material considerations before me to suggest a decision should be made otherwise than in accordance with the development plan. Therefore, for the reasons given, and subject to the conditions as identified, the appeal is allowed.

E Catchside

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 14TIPP-SPLP01 Rev05 and 14TIPP-PPE01 Rev07.
- 3) No development shall take place until full details of the finished levels, above ordnance datum, of the ground floor of the proposed building, in relation to existing ground levels have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved levels.
- 4) No development shall take place above slab level until details and samples of the materials to be used in the construction of the external surfaces of the building hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) No development shall take place above slab level until a fully detailed hard and soft landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include:
 - a) Finished levels and contours;
 - b) Details of boundary treatments;
 - c) Details of vehicular access, car parking and circulation areas;
 - d) Details of hard surfacing materials;
 - e) Details of existing planting to be retained and removed;
 - f) Details of all proposed planting to include written specifications (including cultivation and other operations for plant and grass establishment), schedules of plants noting species, sizes, numbers and densities; and
 - g) An implementation and maintenance strategy for all planting.

The approved landscaping scheme shall be implemented in its entirety in the first planting season following the occupation of the dwelling or the completion of the development, whichever is sooner. Any plants which, within a period of 5 years from the completion of the development die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 6) The building hereby permitted shall not be occupied until the dormer windows in the left and right side elevations, as shown on approved drawing 14TIPP-PPE01 Rev07, have been fitted with obscured glazing. No part of those windows that is less than 1.7 metres above the floor of the rooms in which they are installed shall be capable of being opened. Once installed, the obscured glazing shall thereafter be permanently retained.

END OF CONDITIONS