



Appeal Decision

Site visit made on 15 August 2023 by Darren Ellis MPlan MRTPI

Decision by John Morrison BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th March 2024

Appeal Ref: APP/B1930/W/23/3318554

32 Breakspear Avenue, St Albans, Hertfordshire AL1 5EL

- 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 Luke Scullion against the decision of St Albans City & District Council.
 - The application Ref 5/22/2675, dated 2 November 2022, was refused by notice dated 24 February 2023.
 - The development proposed is the construction of a semi-detached pair of three bedroom dwelling houses following demolition of an existing bungalow.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Main Issues

3. The main issues are the effect of the proposal on a) the character and appearance of the area; and b) the living conditions of future occupiers and neighbours with specific regard to private garden space and privacy respectively.

Preliminary Matter

4. Reference to Policy 5 of the St Albans District Plan 1994 (DP) appears to have been a typographical error, it should have been Policy 4. A copy thereof has been provided and its text was used in the officer report. In any case, the Council does not object to the principle of development and the mistake does not affect the main issues of the appeal. I have proceeded on this basis.

Reasons for the Recommendation

Character and Appearance

5. The appeal site currently hosts a detached bungalow in a residential area. Designs and sizes of dwellings vary but a defined set back by the majority of frontages, which are in the main used for car parking, lends a pleasant spacious feel to the street scene that contributes positively to the character and appearance of the area.
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6. The overall land take of the proposed dwellings would not be dissimilar to the existing bungalow. That said, they would be set noticeably further forwards of No 30 which, as two storey buildings with rooms in the roof, means they would loom larger in the street scene than the existing development and unacceptably erode its spaciousness. Whilst there is no precise uniformity to the height of buildings in the area, the expanse of the new gable roof would appear dominant over its immediate neighbours, the gentler slope of the hip on No 30 particularly. This would increase the obviousness of the proposed development and thus exacerbate the harmful effect that it would have on the character and appearance of the area.
7. The proposal would therefore be contrary to DP Policies 69 and 70 which require, amongst other things and in regard to this main issue, development to have a high standard of design which has regard to its setting and the character of its surroundings.

Living Conditions

8. It strikes me that the size of the proposed dwellings in floorspace terms would appeal to families. The overall size and awkwardly constrained shape of the private garden to No 32a specifically would not be fit for this purpose. It would be unacceptably small and of poor quality, effectively squeezed between the height of the building and, presumably, some form of boundary treatment to separate it from both the other semi and the gardens it would back onto.
9. There would be some space to the side of No 32a, but this would, for the most part, be given over to communal parking which leaves an equally limited, and not very private, space remaining. I am not therefore satisfied it would be sufficient. DP Policy 70 allows for smaller gardens where there is public open space nearby and Clarence Park is within walking distance of the appeal site. Whilst this might go some way to making the lesser provision in quantitative terms better, it would be insufficient to improve the situation qualitatively.
10. The proposed dwellings would be sited in close proximity to the side and rear boundaries of the site. The proposed four first-floor rear windows would all serve habitable rooms and would provide wide views of the rear gardens of adjacent properties. Nos 7 and 9 Edward Close in particular. A degree of mutual overlooking already exists between neighbouring dwellings. However, given the proximity of these windows to the boundary and the fact they would introduce an entirely new level of view, the proposal would result in considerable additional overlooking and subsequently an unacceptable loss of privacy to the rear gardens of Nos 7 and 9. This would detrimentally affect the enjoyment of the gardens for occupiers. The windows would provide views of the rear windows of Nos 7 and 9, but they would be at an angle to each other which would limit the overall effect on their privacy.
11. DP Policy 70 allows for a minimum of half of the 27m window-to-window distance between the dwelling and the rear boundary, to prevent the compromising of adjacent land from future development. It makes no reference to this reduced distance being used to protect the privacy of neighbouring properties. The Council raises no objections on the grounds of the compromising of adjacent land from future development in any event.
12. The adjacent properties in the photographs provided have views of the far end of gardens, whereas the proposed dwellings would provide views of the area

closest to the houses. Furthermore, they appear to show a single-storey commercial or industrial unit to the rear of a property, as opposed to a pair-of semi-detached dwellings as would be the result of the appeal proposal. As such, the context differs from the appeal site and surrounding properties and is therefore not directly comparable to the scheme before me.

13. With this and the above in mind, the proposal would fail to provide an acceptable level or quality of private garden space for future occupiers and cause an unacceptable reduction in the privacy for the occupiers of 7 and 9 Edward Close. As such, it would be contrary to DP Policy 70 which requires, amongst other things, the size of a private garden to reflect the number of persons for which the dwelling has been designed and their likely range of activities and to ensure privacy between dwellings is protected.

Conclusion and Recommendation

14. The Council is not able to demonstrate the supply of housing sites required by the National Planning Policy Framework 2023 (the Framework). Paragraph 11(d)(ii) suggests, in this situation, the most important policies are 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.
15. There would be harm to the character and appearance of the area and the living conditions of future occupiers and neighbours. I give these matters substantial weight. This would also conflict with the Framework, specifically where it is concerned with the appropriateness of design and a high standard of amenity for existing and future users in section 12. The provision of one additional unit would only make a small meaningful difference to the existing supply. Economic advantages would also arise from the construction and occupation of a new house, although these would be temporary and limited again by the scale of the scheme. I would therefore ascribe limited weight to these matters. It is therefore sufficiently clear that the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits, when assessed against the Framework taken as a whole. The presumption in favour of sustainable development does not therefore apply in this particular case.
16. The proposal would be contrary to the development plan and there are no material considerations, including the approach of the Framework and worthy of sufficient weight, that would indicate a decision other than in accordance therewith. I therefore recommend the appeal be dismissed.

Darren Ellis

APPEAL PLANNING OFFICER

Inspector's Decision

17. I have considered all the submitted evidence and my representative's report and on that basis I dismiss the appeal.

John Morrison

INSPECTOR