



Appeal Decision

Site visit made on 11 June 2024

by D J Barnes MBA BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28.06.2024

Appeal Ref: APP/B1930/D/24/3338813

12 Butterfield Lane, St Albans, Hertfordshire AL1 2HJ

- 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 A and Mrs Y Tomlins against the decision of St Albans City and District Council.
 - The application Ref 5/23/1617, dated 30 July 2023, was refused by notice dated 8 February 2024.
 - The development proposed is the erection of a ground floor rear 4m extension and single storey side extension with a new porch.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of ground floor rear 4m extension and single storey side extension with a new porch at 12 Butterfield Lane, St Albans, Hertfordshire AL1 2HJ in accordance with the terms of the application, Ref 5/23/1617, dated 30 July 2023, subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: 23/SPP/000; 23/E/001, 23/E/002; 23/V3/301 and 23/V3/303.
 - 2) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.

Procedural Matter

2. Although a substantial part of the development has been completed, there is still part of the application scheme submitted to the Council which has not yet been erected. For this reason, the appeal scheme is referred to as a proposed development albeit with the ability to assess what has been erected.

Main Issue

3. It is considered that the main issue is the effect of the proposed development on the living conditions of the occupiers of 10 Butterfield Lane.

Reasons

4. The appeal property is a 2-storey semi-detached dwelling which has been altered by the erection of a single storey rear and, in part, side extensions. These additions form part of the proposed development with the remainder of the side extension and the front porch yet to be erected. The Council has not

- objected to the front and side extensions and is not claiming that the appeal scheme would harm the living conditions of the occupiers of 14 Butterfield Lane.
5. Policy 72 of the St Albans District Local Plan Review (LP) refers to single storey rear extensions not normally extending along a shared boundary by more than 3 metres. This is to ensure that the effect on adjoining property is appropriately considered with the amenity of adjoining properties not being unacceptably harmed. This approach is consistent with paragraph 130(f) of the National Planning Policy Framework (the Framework).
 6. The flank wall of the rear extension projects along the shared boundary with 10 Butterfield Lane by around 4 metres. The rear extension has a flat roof and its eaves height is circa 2.9 metres. In the reason for refusal the Council has not raised concerns about the rear extension adversely affecting levels of day and sun light reaching the garden windows of the habitable rooms within the rear elevation of No. 10. The only concern is related to the rear extension being overbearing.
 7. Reference is made by the appellants to the ability for prior approval to be sought for the erection of a rear addition with a depth of up-to 6 metres and such an addition, with an eaves' height of up-to 3 metres, could be erected adjacent to shared boundary with No. 10. The depth of such an addition is in excess of the limitation of 3 metres identified in LP Policy 72.
 8. There is no evidence of prior approval having been sought for such an addition. The rear extension which has been erected would not satisfy the permitted development requirements because of its width. Further, prior approval cannot be retrospective. Accordingly, as a fallback position, only limited weight can be given to the potential for an addition which might be the subject of the prior approval procedure.
 9. In this case, the rear extension's flank wall is visible from the ground floor habitable room windows within the rear elevation of No. 10 and rear garden abutting this elevation. However, the extension's flank wall only extends along a modest length of the shared boundary and the primary outlook from the rear windows of No. 10 is towards the landscaped rear garden.
 10. Further, when stood within the appeal site the difference between a 3-metre and 4 -metre flank wall would not be materially different to such a degree that a longer extension would result in a greater feeling of overbearingness for the occupiers of No. 10. Accordingly, there are no clear grounds for this appeal failing based upon the appeal scheme being an overbearing form of development for the occupiers of No. 10.
 11. Prior approval has been issued by the Council for the erection of an addition to the rear of No. 10 which would be 4 metres in depth (Ref 5/23/1635). At the site visit there was no obvious evidence works had commenced to erect this extension. However, the fact that such prior approval has been sought does indicate that the occupier of this neighbouring property is potentially going to erect such an extension. This potential erection of a rear extension at No. 10 is, therefore, given moderate weight in the determination of this appeal, especially because the current owner of No. 10 did not object the appeal application. If erected, this neighbouring extension would materially change the outlook of No. 10 and provided support for this appeal succeeding.

12. In this case, and for the reasons given, it is concluded that the proposed development would not cause unacceptable harm to the living conditions of the occupiers of 10 Butterfield Lane and, as such, it would not conflict with the overarching objectives of LP Policy 72 which seeks to prevent unacceptable harm to amenity for adjoining properties.

Conditions

13. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the tests in the Framework and the Planning Practice Guidance. For reasons of clarity, a condition is necessary to secure the erection of the proposed extension is completed in accordance with the approved drawings. To assist with the assimilation of the appeal scheme into the surrounding area a condition for the external materials to match those of the property is necessary. An implementation condition is unnecessary because the proposed development has already commenced.
14. For the reasons given, it is concluded that this appeal should be allowed.

D J Barnes

INSPECTOR