



Appeal Decision

Site visit made on 12 July 2024

by G Sylvester BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 August 2024

Appeal Ref: APP/B1930/W/23/3332883

32 Breakspear Avenue, St Albans, Hertfordshire AL1 5EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Luke Scullion against the decision of St Albans City Council.
 - The application Ref is 5/23/0747.
 - 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.

Procedural Matter

2. The Council's appeal statement and the appellant's final comments were submitted after the revised National Planning Policy Framework ("the Framework"), was published. Therefore, both parties have had an opportunity to consider its relevance to this appeal and would not be prejudiced by me not seeking their views on it. All references in this decision are from the revised document.

Main Issues

3. The main issues in this appeal are the effect of the proposed development on:
 - the character and appearance of the area,
 - the living conditions of the occupiers of Numbers 7 and 9 Edward Close, with particular regard to privacy, and
 - the living conditions of future occupiers of the proposed dwellings, with particular regard to outdoor garden space.

Reasons

Character and appearance

4. The appeal property is set within a residential area encompassing a generally linear pattern of roads that are fronted by long rows of predominantly tightly spaced semi detached and detached 2 storey dwellings, some with accommodation within roofs. The dwellings are set back from the roads on discernibly consistent building lines, often behind relatively open frontage car parking and low height boundary treatments.
5. Although displaying a good degree of architectural individuality in terms of their design details and materials, these dwellings are generally built in a period style to common built forms. They either have hipped or gabled main roofs,

often with forward projecting bay windows that extend up to roof level. Together, these factors give the area of the appeal site an attractively cohesive and well-ordered traditional residential character and appearance.

6. In this context, the scale of the bungalow on the appeal site is something of an anomaly in this area. The Council states that the loss of the bungalow did not form part of its refusal reasons and I see no basis to take a contrary view. Nonetheless, the bungalow is somewhat unassuming and is seen primarily in views from this shorter section of Breakspear Avenue close to Flora Grove opposite. In those views its hipped roof form is generally in-keeping with the hipped roofs of the dwelling at Number 30, and those dwellings fronting onto Edward Close.
7. Compared to the previous appeal scheme¹ ("the 2023 appeal") the proposed building would be smaller in length and width, under a slightly lower half hipped roof with a ridgeline comparable to other dwellings in the area. It would be set further back from the road giving a lesser projection beyond the front wall of Number 30. The spacings between the proposed building and Number 30 would be comparable to the relatively tight spacings between dwellings in the area.
8. Although the rear corner of the proposed dwelling (shown as Number 32A on the drawings) would be set close to the garden boundaries of the properties fronting Edward Close, the side garden of the proposed dwelling would be wider at its most perceptible point in the street scene. Furthermore, the west facing flank wall would be separated from the dwellings fronting Edward Close by reasonably long distances. As such, the proposed building would not appear unduly cramped in the street scene, and its front gabled bays, windows styles and arrangement of materials and finishes, would reflect the appearances of other dwellings in the area.
9. However, given its relatively exposed position set away from the building on the corner of the junction with Edward Close, and opposite the Flora Grove junction, the proposed dwelling would be highly visible in the street scene. In these views the half hipped roof form, which is not a characteristic of this area, would be out-of-keeping with the shallower and more compact fully hipped roof forms of Number 30 and the dwellings fronting Edward Close in the street scene, notwithstanding that some have rear box-like dormers. Although there are dwellings with wide gabled roof forms in the area, these are generally concentrated in coherent rows along the longer section of Breakspear Avenue leading up to Camp Road and on Flora Grove, and the proposed dwelling would not generally be seen in the same row as them.
10. The elevated bulk of the proposed half hipped roof form, with its relatively long ridgeline and the massing of the exposed west facing flank elevation, would give the proposed building an imposing presence in the street scene. Consequently, the proposal would constitute an overly large building. Even taking account of variations in topography and roof levels in the area, the proposed building would, in its position set forwards of Number 30, loom large in the street scene by comparison to the surrounding dwellings. As such, it would be unduly dominant and detrimental to the established character and appearance of the area. The proposed materials would not overcome this harm.

¹ APP/B1930/W/23/3318554

11. For these reasons, I conclude on this issue that the appeal proposal would have a harmful effect on the character and appearance of the area, contrary to Policies 69 and 70 of the St Albans District Plan, Adopted 1994² ("the SADP"), which require, amongst others, that development achieves a high standard of design having regard to its setting and the scale and character of its surroundings. The proposal would also conflict with the Framework's requirements in Paragraph 135.c) of ensuring that development is sympathetic to local character, including the surrounding built environment.

Living conditions of the occupiers of Numbers 7 and 9

12. A number of sizeable windows serving bedrooms would be set in the rear walls of the proposed dwellings. The closeness of these windows to the rear garden boundaries of Numbers 7 and 9 Edward Close would provide future occupiers of the proposed dwellings with elevated and relatively wide angle views from out of the bedrooms and across the rear gardens of Numbers 7 and 9, at relatively short distances. Whilst a level of mutual overlooking between properties is a characteristic of this residential area, the viewing distances from out of the proposed bedrooms would be considerably shorter than from the existing upper floor rear windows/dormer windows in nearby dwellings and the rear gardens of nearby and opposing properties.
13. Given the number of first floor windows in the rear walls of the proposed dwellings, the occupiers of Numbers 7 and 9 would experience a significant loss of privacy in their gardens when compared to the existing situation. The planting growing within those gardens and the existing low height single storey wings and outbuildings at those properties, would not provide effective screening of views from the bedrooms of the proposed dwellings.
14. Whilst I have no reason to find that the appeal proposal would compromise further development of adjoining land, this is a neutral factor that would not outweigh the harm identified.
15. For these reasons, I conclude on this issue that the appeal proposal would have a significantly harmful effect on the living conditions of the occupiers of Numbers 7 and 9 Edward Close, contrary to SADP Policy 70 insofar as it requires development to, amongst other requirements, provide adequate visual privacy. The proposal would also fail to accord with the Framework's requirements in Paragraph 135.f), of creating places with a high standard of amenity for existing and future users.

Living conditions of future occupiers

16. Compared to the scheme before the Inspector in the 2023 appeal, the proposed dwelling at Number 32A would be provided with a larger area of garden behind its rear wall, such that its garden would exceed the 80 square metres that the Council Officer's Report states is required by Design Advice Leaflet Number 1 ("the DALN1") to SADP Policy 70.
17. Although split into side and rear gardens, the width of the gap between the corner of this proposed dwelling and the boundary with the properties on Edward Close, would provide a walkable route between them, aiding usability and providing an opportunity for the garden areas to provide complimentary domestic functions. I see no reason why this side garden could not be fenced

² City and District of St Albans, District Local Plan Review, Adopted November 1994.

off from the parking area to provide privacy. The part of the garden behind its rear wall, although of a somewhat irregular shape, would be conveniently accessible and of a size sufficient to establish, for example, a modest outdoor seating area and patio for relaxation. The garden of the proposed dwelling would therefore contribute to providing adequate living conditions for future occupiers.

18. The size of the rear garden of the proposed dwelling at Number 32B, at some 68 or so square metres, would fall short of the amount set out in DALN1. However, the garden would provide conveniently accessible space visible from the glazed patio doors and windows of the kitchen/dining room. Its practical and usable shape would be sufficient to establish a modest outdoor seating area commensurate with likely occupancy levels, and space for domestic purposes such as the drying of washing, and children's play space. The provision of bin storage in the front yard area would reduce the need for such storage within the rear garden, allowing future residents to make fuller use of the space available.
19. Furthermore, the evidence suggests that the appeal site is within a short walkable distance of public open space, which provides an opportunity for recreation. This adds further weight in its favour, and I note that SADP Policy 70 allows for smaller gardens where there is public open space nearby.
20. For these reasons, I conclude on this issue that the proposal would provide acceptable living conditions for future occupiers of the proposed dwellings, with particular regard to outdoor garden space. As such, it would be consistent with SADP Policy 70, insofar as it requires development to, amongst other requirements, provide adequate private gardens relative to anticipated occupancy levels. It would also accord with the Framework's requirements in Paragraph 135.f), which are set out above.

Other Matters

21. The Council is unable to demonstrate a 5 year supply of housing land. The appellant refers to the Council's Annual Monitoring Review of December 2023 as indicating a current land supply of around 2 years, with a figure of 1.7 years also quoted by the appellant. This has not been disputed in the evidence before me. Therefore, the boost in the supply of housing which the Framework expects is not being achieved in the Council's area, and consequently the delivery of an additional housing unit would make a valuable contribution to housing supply in a location where housing is acceptable as a matter of principle. Benefits would also ensue for the local economy through construction and occupation of the development. These fall to be weighed in the balance.
22. I am informed that the Council gave significant weight to the benefits of a single dwelling in a decision elsewhere in its area. However, I am not bound by other decisions of the Council.
23. I acknowledge that the Council determined that the proposal would not give rise to harm with regard to car parking/highway safety, bin storage, heritage assets or biodiversity/ecology. I have found that adequate living conditions for future occupiers would be provided. However, an absence of harm in these respects would be a requirement of any well-designed development and does not weigh in favour or against the proposal.

Planning Balance and Conclusion

24. In the context of the development plan, I have found that the proposal would conflict with SADP Policies 69 and 70. Although these policies pre-date the Framework, they are generally consistent with its objectives of ensuring developments are of a high design quality, sympathetic to local character, and achieve a high standard of amenity for existing users. Therefore, I give the appeal proposal's conflict with these policies substantial weight.
25. The Framework is a material consideration and given the Council's current housing land supply, Paragraph 11.d)ii. of the Framework applies and planning permission should be granted, unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
26. For the reasons given above, the proposal would not be well-designed or sympathetic to local character, and it would not achieve a high standard of amenity for nearby occupiers. As such, it would conflict with the Framework's policies, including in Paragraph 135, which seek to achieve well-designed places, sympathetic to local character and surrounding built environment, and high standards of amenity for existing users.
27. Framework Paragraph 70, requires great weight to be given to the benefits of using suitable sites within existing settlements for homes. In this regard the delivery of one additional housing unit would make a small but valuable contribution to boosting housing supply and could be built-out quickly to the benefit of the local economy through construction and occupation. It could be a self-build/custom build project, as stated on the planning application form, albeit without a mechanism in place to secure this, it attracts limited weight in its favour.
28. Taking all the above into account, I find that the adverse impacts of the proposal on the character and appearance of the area and on the living conditions of nearby occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. Consequently, the proposed development is not the sustainable development for which the Framework indicates a presumption in favour of.
29. For the reasons given above, the appeal proposal would conflict with SADP Policies 69 and 70, which brings it into conflict with the development plan as a whole. The material considerations, including the benefits of the proposal and the provisions of the Framework, do not carry sufficient weight to outweigh the conflict, nor do they indicate that the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

G Sylvester

INSPECTOR