



Appeal Decision

Site visit made on 10 September 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 24 September 2024

Appeal Ref: APP/J1915/W/23/3334648

**Land to the rear of Nos.74, 75 and 76 Magnaville Road,
Bishops Stortford, CM23 4DW**

- 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 Ms Edmunds, Banks and Munro against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0775/FUL.
 - The development proposed is the change of use of land to residential curtilage and erection of a 1.8 metre height fence (set in by 1.5 metre) and with managed peripheral landscaping.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed development on the character and appearance of the street scene and wider area; and ii) whether it would retain, protect or enhance biodiversity and green infrastructure.

Reasons

3. The appeal site is located within Thorley Park that was developed as a major urban extension of Bishop's Stortford in the 1970's and 1980's. As a result, the layout of the area includes routes and the provision of green spaces connecting parts of the development to the town centre and to the Thorley District Centre. The appeal parcel of land is bounded to the north and east by boundary fencing of the rear gardens of detached and semidetached properties on Magnaville Road which are set within well-proportioned if modest plots. To the west of the site are three parking spaces and to the south is a public footpath that extends in an east-west direction and links into a public right of way (Bishop's Stortford 27), which is located to the west of the site. To the south of the site is a cluster of two storey blocks of flats which are located within an open, spacious landscaped setting.
4. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The most important policies in relation to this proposal are contained in the East Herts District Plan (EHDP), adopted in October 2018, and the Bishop's Stortford Town Council Neighbourhood Plan for All Saints, Central,

South and part of Thorley (First revision) 2021-2033 (NP). The most relevant policies referred to in the representations are Policy HOU12, Policy DES3, Policy DES4, Policy NE4 of the EHDP and Policy GIP5 of the NP. These policies are well known to both parties, so that I need not set out the detail here.

5. For the appellants it is explained that the proposal has been led by one individual (the resident of No.76) who took the view early on in the process that she would seek planning permission in the first instance prior to spending time on approaching all of the residents of 71 to 76. The red line is drawn around the totality of the land for which the change of use is sought. The garden extension would be a logical southern extension of each of the domestic curtilages. It is also explained that the residents have had to assume some form of informal control of the land and have paid for dead and diseased trees to be felled and taken away and have spent a significant period of time clearing up dumped rubbish and litter.
6. It is argued that the benefits of larger rear gardens apply to the run of properties from no. 71 to 76, which currently mainly have small front gardens and postage stamp size rear gardens. An increase in size of the small rear gardens would clearly be welcomed by those residents, and an improvement to the quality of the dwellings is supported by planning policy. Whilst these are private benefits, they apply to the whole run of properties: it is not a case of a single isolated individual simply wanting a larger garden, and this should carry weight.
7. Two previous appeal decisions, where land has been taken for development, have been drawn to my attention (references PP/J1915/W/18/3199031 and APP/J1915/W/22/3313455). However, I do not know the full background to these decisions and, in any event, each proposal must be considered on its own merits. Therefore I do not find these persuasive.

Conclusions

8. As I saw at my visit, the site includes a grass verge alongside the footpath, with most of the area immediately adjacent to the garden fences being thickly covered with a variety of low mature trees and hedging that would be impenetrable by people and anything but small animals. The grassed area did not show any substantial signs of litter or animal waste, and was attractive as far as the amenity of the public footpath is concerned. The trees and hedging on the site contribute to the landscape character and green infrastructure network within the immediate and wider locality.
9. Although the trees and hedging do not directly connect to other planted areas as would a series of interconnected hedgerows, this small area will be a habitat for small birds and other creatures, which will benefit from the footpath connections to other areas with a variety of habitats.
10. The proposal would result in the enclosure of a valuable area of open landscape amenity space and green infrastructure within an established housing development. The loss of the existing landscaping and erection of new fencing would be harmful to the character and appearance of the streetscene and wider locality. Such landscaped areas are an important characteristic of the Thorley Park estate, often focused on pedestrian routes, parking areas and other communal or public areas. These landscaped areas form part of the wider

green infrastructure network and positively contribute to the landscape character and general amenity of the wider area. The appeal site also provides some habitat for wildlife and has intrinsic biodiversity value as an area of green space within a built-up area.

11. I can appreciate that the proposal would benefit the appellant and her neighbours by enlarging the relatively small rear gardens. But this would be a private benefit, albeit to a number of individual households, that does not outweigh the loss to an important characteristic of the public realm that was part of the overall design of Thorley Park. The proposal would be contrary to the policies referred to above. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR