



Appeal Decision

Site visit made on 12 November 2024

by **P B Jarvis DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29 January 2025

Appeal Ref: APP/W/J1915/W/24/3346838

12 Thorn Grove, Bishops Stortford, Herts CM23 5LD

- 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 Devoir Ltd against the decision of East Herts District Council.
 - The application Ref. is 3/23/1983/FUL.
 - The proposed development is single storey side extension incorporating balcony with balustrade. Two storey and first floor extensions to front/side. Creation of loft room with insertion of rooflights to all elevations. Erection of solar panels and external alterations. Creation of three, five bedroomed dwellings, with the creation of access, parking and landscaping.
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Decision

1. The appeal is dismissed insofar as it relates to the creation of three, five bedroomed detached dwellings with the creation of access, parking and landscaping.
2. The appeal is allowed and planning permission is granted insofar as it relates to single storey side extension incorporating balcony with balustrade, two storey and first floor extensions to front/side, creation of loft room with insertion of rooflights to all elevations and erection of solar panels and external alterations to the existing dwelling at 12 Thorn Grove, Bishops Stortford, Herts CM23 5LD in accordance with the terms of application reference 3/23/1983/FUL and subject to the following conditions:
 - 1) The development hereby permitted shall be begun within three years of the date of this decision.
 - 2) No above ground construction works shall take place until details / samples of all materials to be used in the development have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 3) The development hereby permitted, which for the avoidance of doubt relates only to the extensions and works to the existing dwelling as described above, shall be carried out in accordance with the following approved plans: 1:1250 location plan, Devoir 23.TH 10.102 (block plan), Devoir 23/TH 10.124 (existing site plan), Devoir 23/TH 10/103 (existing ground, first floor and roof plans), Devoir 23/TH 10.104 (existing front and rear elevations), Devoir 23/TH 10.105 (existing east and west elevations), Devoir 23/TH 10.106B (proposed site plan), Devoir 23/TH 10.107 (proposed ground and first floor plans), Devoir 23/TH 10.108 (proposed second floor and roof plans), Devoir 23/TH 10.109 (proposed front and rear elevations), Devoir 23/TH 10/110 (proposed east and west

elevations), Devoir 23/TH 10/127 (View from Thorn Grove) and Devoir 23/TH 10/128 (existing and proposed site sections).

- 4) Development shall not commence until the tree protection measures have been put in place in accordance with the approved plans (101.GA General Arrangement Drawing) and details contained in the Tree Survey Report dated October 2023 and Tree Protection Method Statement dated February 2024. They shall be maintained as such throughout the construction period.

Procedural Matters

3. The description used above differs from that in the original planning application form but the changes made by the Council were agreed by the appellant. As the amended version more accurately describes the proposed development, I have used it in this decision.
4. A new National Planning Policy Framework (the Framework) was published in December 2024. The parties were given the opportunity to comment and these have been taken into account in the decision below.

Main Issues

5. The Council's decision notice included a reason relating to an inconsistency of the plans; however, this has been resolved through the submission of amended plans. Therefore, the main issues are the effect on:
 - the character and appearance of the site and surroundings
 - the living conditions of the occupiers of the proposed and adjoining properties

Reasons

Character and appearance

6. The site comprises a modest detached dwelling set within a substantial well vegetated plot. The dwelling sits at the northern end of the plot fronting Thorn Grove and takes access from it. There is a belt of mature pine trees running along the eastern boundary of the site which are covered by a Tree Preservation Order (TPO). The area is predominantly residential, comprising of a variety of size and style of dwellings. Thorn Grove is predominantly characterised by large, detached dwellings within a verdant setting.

Extensions / works to the existing dwelling

7. The proposed extensions would be to the east side of the dwelling and would be substantial in size comprising two storey side additions (with accommodation in the roofspace) and a single storey front addition extending towards the site frontage. They would more than double its size adding to its bulk as viewed in the street scene.
8. However, the additions are well designed and complementary to the appearance of the existing dwelling. Whilst substantial in size, the extensions would be suitably subservient in appearance with lower ridge height to the two storey addition and elements that reduce in height to the front of the dwelling which whilst seen within the street scene would not be unduly dominant. Furthermore, having regard to the variety of style and size of existing nearby dwellings the resulting building would be

similar in scale and size to others within the street and of a design that would not appear incongruous.

9. Overall, the extended dwelling would sit comfortably within the plot and wider area as viewed within the street scene and would comply with Policies HOU11 and DES4 of the East Herts District Plan (2018) (EHCP) which seek to ensure that development is of a high standard of design to reflect and promote local distinctiveness and that extensions to dwellings are of a size, scale, mass and form appropriate to the character, appearance and setting of the existing dwelling and surrounding area and generally appear as a subservient addition.

Proposed new dwellings

10. With regard to the proposed dwellings, they would also be of substantial scale and size providing accommodation on three floors with attached double garages to the front. Whilst in design terms the individual dwellings would be sympathetic to the site and its surroundings, the amount and scale of built development proposed coupled with its layout comprising an continual row of dwellings with only small gaps between them through the centre of the site would be at odds with the prevailing pattern of built development within its immediate context.
11. In particular, plot 1 immediately to the south of the existing, extended dwelling would be sited very close to its rear (south) elevation. Whilst the existing dwelling would be served by a garden area to the side, the position of the dwelling on plot 1 would be unacceptably close to its southern elevation resulting in an overly built-up appearance and cramped layout that would not be sympathetic to the predominant pattern and grain of built development along Thorn Grove.
12. There are existing examples of 'backland' and infill sites which adjoin the appeal site notably at The Sycamores and to the rear of 18 Thorn Grove. The Appellant has referred to these and other infill development sites including one at a nearby in Pine Grove and to the rear of 8 Thorn Grove. However, those within the immediate context of the appeal site are laid out with gaps between and around the individual dwellings such that they respect the reasonably spacious character of the area and built pattern of their surroundings. The dwellings around The Sycamores are set quite close to one another but this comprises a separate and discrete small cul-de-sac, set some distance from the Thorn Grove street scene, and which maintains suitable gaps with adjoining properties.
13. I therefore find that the proposal would be harmful to the character and appearance of the site and its surroundings. It would thereby fail to accord with EHDP Policy DES4 which seeks to ensure a high standard of development, reflective of local distinctiveness, that makes best possible use of available land by respecting or improving the character of site and surrounding area, having due regard to design opportunities and constraints of a site.
14. I have been referred to the Bishop's Stortford Neighbourhood Plan 2021-2033, in particular the Neighbourhood Plan for All Saints, Central, South and Part of Thorley Parish – Part 2 Site Independent Policies (1st Revision) dated 2021 (NP). Although the Council did not cite any NP policies in the decision, the Appellant has referred to Policy HDP2 which seeks to ensure that all developments are of high quality that sit well within their setting. For the reasons set out above, I find that the proposed new dwellings would also be contrary to this policy.

Living conditions

15. In terms of the amenity of the future residents of the extended and proposed dwellings, the overall size of the garden areas to be provided for proposed plots 1, 2 and 3 would be modest and all garden areas would be affected by the existing belt of TPO trees which runs along the eastern boundary of the site. The Appellant has provided a sunlight / daylight report relating to the impact of the TPO trees that confirms that national standards, as set out in the BRE documents, would be satisfied in terms of their impact on light received within these garden areas. It is unclear if this report takes into account the effect of the dwellings themselves which due to their position to the west of the garden areas are also likely to result in some overshadowing. However, this impact is unlikely to be significant on the basis of the standards used and that the dwellings would not affect early morning sun.
16. In terms of the impact on occupiers of adjoining properties, it is those to the east of the site which would be most affected, the separation to and relationship with other adjoining properties being sufficient to ensure there would be no unacceptable loss of privacy. The rear facing openings at upper levels of plots 2 and 3 could potentially result in a loss of privacy to the adjoining dwellings at Westford House and Rushmere House. In particular, the large bi-fold window openings with balcony at second floor level would face towards and could potentially overlook the rear gardens of these adjoining properties. The dwelling on plot 2 is positioned such that this would be at an angle and any potential overlooking could be mitigated by the use of side screens. However, the rear of plot 3 faces directly towards these garden areas. The intervening tree belt would not sufficiently mitigate these impacts as the trees only provide some screening at the upper levels.
17. Overall, having regard to the above, it is concluded that there would be an unacceptable adverse impact on the living conditions of the occupiers of Westford House and Rushmere House adjoining the eastern boundary due to overlooking from the window and balcony at the second floor level of plot 3. This would result in conflict with Policy DES4 of the EHDP which seeks to avoid significant detrimental impacts on the amenity of occupiers of neighbouring properties.

Other Matters

18. In respect of the Framework I find, for the reasons set out above, that whilst the proposal seeks to make effective use of the land, it would be in a way that would adversely affect the character of the area and living conditions of adjoining occupiers. The proposal would thus fail to function well and add to the overall quality of the area, nor would it be sympathetic to the local character and surrounding built environment.
19. The appellant refers to Framework paragraph 130a which seeks a significant uplift in the average density of areas that are well served by public transport unless there are strong reasons why this would be inappropriate. In this regard the adverse impact on the character of the area is considered to provide a strong reason for refusing the development proposed.

The planning balance

20. I find for the reasons set out above that the proposal overall would not accord with the development plan; thus, it is necessary to consider whether any material considerations indicate a decision other than in accordance with it.

21. It is agreed that the proposal falls to be considered under paragraph 11d(ii) of the Framework relating to the presumption in favour of sustainable development, given that the Council is unable to demonstrate a five year supply of housing. The Framework states that in undertaking the balance, particular regard should be had to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
22. Whilst the appeal site does lie in a sustainable location, there would be a significant adverse impact on the character and appearance of the site and its surroundings and detrimental impact on the amenities of the occupiers of adjoining dwellings. In this respect, the proposed dwellings do not constitute an effective use of land nor secure well-designed places.
23. In terms of the benefits arising, the proposal would make a valuable contribution to the supply of local housing where there is currently an identified shortage, a supply which may proportionately reduce given the likely impacts on the housing requirement arising from the updated Framework. Whilst in a sustainable location, with associated economic and social benefits, having particular regard to the key policies referred to above, only moderate weight is given to these benefits. These benefits are significantly and demonstrably outweighed by the adverse impacts identified above.

Conclusions

24. I conclude that the proposed development of three new dwellings would not be acceptable for the reasons set above.
25. However, I conclude that the proposed extensions and other works to the existing dwelling are acceptable. Given that they are physically separate and severable from the development of the three dwellings, a split decision can be issued. Conditions to ensure that the proposed extensions accord with the approved plans and that tree protection measures are in place before commencement of development and throughout construction are necessary in the interests of clarity and to protect the TPO trees in the interests of visual amenity.
26. I therefore conclude that this appeal should be dismissed in part and allowed in part.

P B Jarvis

INSPECTOR