



Appeal Decision

Site visit made on 7 May 2025

by **D Ellis MPlan MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 25th June 2025

Appeal Ref: APP/B1930/W/24/3358272

35 St Stephens Avenue, St Albans, Hertfordshire AL3 4AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr & Mrs Somers against the decision of St Albans City Council.
 - The application Ref is 5/2024/1553.
 - The development proposed is demolition of existing dwelling and erection of a new build replacement dwelling with associated alterations to front driveway hardstanding and rear patio.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the living conditions of the occupiers of 33 St Stephens Avenue (No 33), with particular regards to outlook.

Reasons

3. The appeal property comprises a detached two-storey dwelling set in a generous plot. The proposed replacement dwelling would be in close proximity to the shared boundary with No 33. The two-storey part of the proposed dwelling would project approximately 4.4 metres beyond the rear elevation of No 33, and the single-storey element would project approximately a further 2.5 metres. Owing to the presence of the garage to the side of No 33, the separation distance between the proposed dwelling and rear-facing windows in the main dwelling at No 33 would ensure that there would not be any undue impact on these windows.
4. However, the rear garden of No 33 has a patio and seating area immediately adjacent to the rear of the dwelling, which appears to come up to the boundary, with the rest of the garden laid to lawn. The proposed two-storey dwelling would add considerable bulk and massing close to the boundary. Due to its scale and proximity, the proposed dwelling would be visually intrusive and would have a considerable overbearing impact when viewed from the area of rear garden nearest to the house of No 33, significantly and harmfully reducing the outlook from this area. This would be exacerbated by the lower land level of No 33.
5. Images have been provided of other dwellings in St Stephens Avenue with large rear projections. However, it is unclear from these images how similar these projections are to the appeal proposal, such as the proximity to the boundary, the height of the projections, and differences in land levels. Furthermore, no details of any planning permissions for these projections have been provided, so I am unable to make any meaningful comparison between the reasons for allowing

these projections and the reason for refusal of the proposal before me. The dwelling at 12 Tithe Barn Close appears to be at the same land level as its adjacent dwellings, unlike the appeal property. For these reasons, I am not persuaded that these other examples are directly comparable to the scheme before me.

6. Overall, the proposal would harm the living conditions of the occupiers at No 33, with particular regard to outlook. Therefore, the proposal would conflict with Policy 70 of the City and District of St Albans District Local Plan Review (1994), insofar as it seeks to protect the living conditions of neighbouring occupiers. For the same reasons it would also conflict with the design aims of the National Planning Policy Framework.

Other Matters

7. The appellants assert that the proposal would result in benefits and improvements to the road and area. The proposal would replace an existing house of simple design in a street with a range of house designs, and would provide more habitable space for the appellants' family. However, it has not been demonstrated that these improvements could not be achieved in a way that does not cause the harm identified. As such I afford limited weight to these improvements.
8. The proposal is for a self-build dwelling. However, no completed planning obligation under section 106 of the Town and Country Planning Act 1990 (as amended) has been provided to legally secure the new dwelling as a self-build house. The Council has suggested a condition could be used to secure the dwelling as self-build, however such a condition is unlikely to pass the test of enforceability. I am therefore not convinced that a condition could be used to secure the dwelling as self-build and, consequently, there would be no mechanism in place to ensure that the new property would be a self-build dwelling. I therefore attach limited weight to the self-build benefits. Overall, the benefits of the scheme would not outweigh the significant harm identified above, which would still be the case even if I accepted the proposal would be a self-build dwelling.
9. A self-build exemption is requested with regards to the biodiversity net gain requirements. However, for the reasons above, I have no mechanism before me to secure the proposed dwelling as self-build and thus would not qualify for the self-build exemption. However, as the appeal is being dismissed on other grounds, this matter is not determinative in this case.

Conclusion

10. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. The appeal is therefore dismissed.

D Ellis

INSPECTOR