



Appeal Decision

Site visit made on 7 December 2023

by Nick Bowden BA(Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 January 2024

Appeal Ref: APP/X1925/W/23/3324491

Land adjacent to 19 Shaftesbury Way, Royston, Hertfordshire SG8 9DE

- 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 Geoff Marks against the decision of North Herts Council.
- The application Ref 23/00805/FP, dated 3 April 2023, was refused by notice dated 26 May 2023.
- The development proposed is a 2 bedroom dwelling with single storey rear projection.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Following the issue of the decision notice on 26 May 2023, the Council made a provisional Tree Preservation Order (TPO) on 21 June 2023 which was confirmed on 1 November. This TPO covered a number of trees and included an Ash tree on the application site and this tree is referred to in reason one of its decision. I have taken account of this TPO in reaching my conclusions.
3. The National Planning Policy Framework (the Framework) was revised in December 2023. As the changes do not materially affect the main issues in this case, the parties have not been invited to make further comments.

Main Issues

4. The main issues are the effect of the proposed development on:
 - a) The character and appearance of the area including a protected tree within the appeal site, and
 - b) The living conditions of neighbours having regard to outlook, light and overlooking.

Reasons

Character and appearance

5. The appeal site comprises a parcel of land adjacent to number 19 Shaftesbury Way. It is laid to grass with a mature Ash tree to its centre. The parcel of land forms part of a small open green space that is criss-crossed by a number of footpaths providing pedestrian access to surrounding roads and homes. The green space adds articulation to this estate of houses, particularly with the pleasant sprinkling of numerous mature trees. The proposed dwelling would be situated on this green space. This would erode the open quality of this area and

introduce unwelcome built form to the detriment of an interesting local feature in this part of the housing estate. This would be harmful to the character and appearance of the area. That the proposed dwelling would be detached is, however, not a matter of concern of itself, as this would be similar to the row of detached houses along this part of the road. The harm arises due to built form in this location.

6. Following its refusal of planning permission, the Council made a TPO which included the Ash tree which is set towards the centre of the site. This tree is a valuable feature in the street scene in its own right and, moreover, contributes to the verdant setting of this small area of green space. As such, its loss would be detrimental to the character of the area.
7. I conclude that the proposed development would disrupt this area of pleasing open green space, including the loss of the protected tree, to the detriment of the character and appearance of the area. The proposal therefore conflicts with policies SP9 and D1 of the North Hertfordshire Local Plan (NHLP) and provisions of the Framework. These policies, amongst other things, support new development which does not cause unacceptable harm to living conditions.

Living conditions

8. The proposed dwelling would be set adjacent to number 19 Shaftesbury Way. The bulk of the building would mainly align with this neighbour which has no facing windows to this aspect. A rear projecting single storey element would extend beyond the back wall of this neighbour, however this depth is modest and would not result in a significant loss of outlook. There may be a slight loss in natural light or direct sunlight due to the proposed dwelling, however this would only be for part of the day and is from an aspect which is already shaded by the Ash tree. As such, the proposed dwelling would not have an unacceptable impact on the living conditions of number 19.
9. The appeal site is mainly level but does slope sharply down towards the rear and towards numbers 65 and 67 Shepherd Close. These neighbouring houses would have a view uphill of the proposed dwelling. However, I am satisfied that this distance is sufficiently great such that it would not result in an overbearing appearance, despite the change in levels. Moreover, this distance is sufficient to ensure that there would not be a material increase in overlooking from the proposed dwelling, particularly as numbers 65 and 67 address the open green space towards the front.
10. I conclude that the development complies with policy D3 of the NHLP and the Framework. This policy is to ensure that living conditions are not adversely affected by new development.

Other Matters

11. The Highway Authority have inferred that they own part of the appeal site and have sought clarity from the appellant. However, neither the appellant nor Highway Authority have provided more commentary on this issue. Nevertheless, the ownership of land is not a matter within my remit. In any case, no material planning harm, or conflicts with any policies of the development plan have been highlighted by the Council or Highway Authority in this regard.

Conclusion

12. For the reasons given above I conclude that, whilst the development would not be detrimental to the living conditions of neighbours, it would be harmful to the character and appearance of the area and result in the loss of a protected tree. The proposal therefore conflicts with the policies of the development plan, read as a whole and there are no material considerations, including the creation of a new home, that would outweigh this. The appeal should, therefore, be dismissed.

Nick Bowden

INSPECTOR