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# Appeal Decision

Site visit made on 24 February 2015

by **C J Leigh BSC(Hons) MPhil MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 23 March 2015

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## Appeal Ref: APP/C1950/A/14/2229259

### 315 St Alban's Road West, Hatfield, Hertfordshire, AL10 9RJ

- 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 & Mrs D Guddemi against the decision of Welwyn Hatfield Borough Council.
  - The application Ref S6/2014/1456/FP, dated 30 June 2014, was refused by notice dated 15 August 2014.
  - The development proposed is the erection of two detached dwellings.
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## Decision

1. The appeal is allowed and planning permission is granted for the erection of two detached dwellings at 315 St Alban's Road West, Hatfield, Hertfordshire, AL10 9RJ in accordance with the terms of the application, Ref. S6/2014/1456/FP, dated 30 June 2014, and subject to the conditions set out on the attached schedule.

## Main issue

2. The main issue is the effect of the proposed development on the living conditions of adjoining occupiers.

## Reasons

3. Planning permission exists for the erection of two houses to the rear of 315 St Alban's Road West in the same position and of the same design as proposed in this appeal (Ref. S6/2013/0398/FP). The difference between that extant scheme and the one before me is the access road: it is now proposed to extend the existing cul-de-sac of Ashbury Close to provide access to the new houses, rather than providing a new drive to St Alban's Road West, running between Nos. 315 and 313 following demolition of the garage to No. 315.
4. The proposals in this appeal would lead to an increase in traffic along Ashbury Close, which would be most noted by occupants of Nos. 19 & 21. However, I saw that the proposals would not be creating a new access road closer to the front elevations of those houses, nor would it be moving the existing access road closer. Rather, the development would result in an existing access drive being used more intensively, with the extension of that roadway westwards.
5. Thus, there is already traffic movement along that access drive, and parking and turning of vehicles in front of all the Ashbury Close properties. This fact, and the distance from the access drive and the front elevations of all the Ashbury Close properties, mean that there would not be a material increase in

the disturbance arising from additional traffic accessing the new housing; traffic would pass those houses and then park and turn within the appeal site. The marginal increase in traffic from any delivery or commercial vehicles accessing the new houses would similarly not lead to any material disturbance to existing properties.

6. I further note that the proposals put forward in this appeal would mean that the access road no longer would run the full length of the retained gardens to Nos. 313 and 315 St Alban's Road West, as shown in the extant permission. In my view such an arrangement would lead to a greater impact on residential amenity by introducing a new access road adjoining garden areas which are not currently disturbed by an adjacent drive. The appeal scheme therefore represents an improvement to the scheme and adds weight in favour of the current proposals.
7. The occasional use of land on Ashbury Close for bin storage and/or collection from the proposed houses would be of very limited intrusion upon the outlook for existing residents. There would not be a harmful effect on amenities arising from such activity.
8. On the main issue it is therefore concluded that the proposed development would not be harmful to the living conditions of adjoining occupants by virtue of noise and disturbance, and would be consistent with the objectives of Policy D1 of the Welwyn Hatfield District Plan 2005, which seeks to ensure a high quality of design in all new development.

#### *Other considerations*

9. The Highways Authority raise no objection to the proposed development on the grounds of highway safety or parking provision. Based on my observations at the site visit and evidence submitted on this matter I see no reason to come to a different conclusion that the proposals would have an acceptable impact upon highway safety.
10. The design of the proposed dwellings is the same as that permitted in the extant scheme, and I concur that the scale, layout and form of the buildings would be suitable for the area.

#### *Conclusions and conditions*

11. For the reasons given, and having regard to all other matters raised, the appeal is allowed.
12. I have attached the Council's suggested condition relating to the submission of materials, landscaping and the finished levels for the housing, in the interests of securing a satisfactory appearance to the development. I have attached conditions relating to the laying out and retention of the car parking area, and cycle provision, to ensure adequate provision of those matters. I have included conditions specifying the obscure glazing of windows, to protect privacy.
13. The Council seek to remove wide-ranging permitted development rights for extensions and alterations to the dwellings. Planning policy guidance on the Use of Planning Conditions says that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances, and that blanket removal of freedoms for small-scale domestic alterations are unlikely to meet the tests of

reasonableness and necessity. I find the local planning authority's justification for the wide scale removal of such rights – said to enable them to fully consider the effects of developments in the interests of visual amenity and residential amenity – to be a generalised statement that does not demonstrate to me any exceptional circumstance why such wide-ranging rights should be removed. The condition therefore fails the tests of paragraph 206 of the National Planning Policy Framework.

14. The Council also seek to remove permitted development rights for the change of use of the property to a House in Multiple Occupation. Such a condition satisfies the tests in the Framework and the guidance on the Use of Planning Conditions since I am informed this would be to accord with an Article 4 Direction on this matter covering the area within which the appeal site lies. It is therefore necessary to attach this condition to ensure the new properties are also covered by this existing restriction.
15. I have modified a number of conditions in the interests of precision and enforceability.
16. Finally, I have attached a condition specifying the approved drawings in order that the development shall be carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of proper planning.

**C J Leigh**

INSPECTOR

### **Schedule of conditions**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) No development shall take place until samples of materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be implemented using the approved materials.
- 3) No development shall take place until full details on a suitably scaled plan of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The development shall not be carried out other than in accordance with the approved details. The landscaping details to be submitted shall include: a) proposed means of enclosure and boundary treatments to all areas of the site. b) hard surfacing, other hard landscape features and materials. c) existing trees, hedges or other soft features to be retained and a method statement showing tree protection measures to be implemented for the duration of the construction. This statement is to include an Arboricultural Implication and Method Statement which refers to BS5837:2005 Trees in Relation to construction and contain pre-development works, requirements for barriers and ground protection, prohibitions, and excavation details for services near existing trees. d) planting plans, including specifications of species, sizes, planting centres, number and percentage mix, and details of seeding or turfing.
- 4) All planting seeding or turfing and soil preparation comprised in the above details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings, the completion of the development, or in agreed phases whichever is the sooner: and any plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written consent to any variation. All landscape works shall be carried out in accordance with the guidance contained in British Standards, unless otherwise agreed in writing by the local planning authority.
- 5) Both existing and proposed levels of the ground shall be shown on detailed plans and sections, including finished floor levels of the approved dwelling and those plans shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. Development shall be carried out in accordance with the approved plans.
- 6) Prior to first occupation of the development the proposed car parking and cycle parking layout as shown on the drawings hereby approved shall be laid out and retained thereafter solely for that specific use.
- 7) The ground floor window to the WC and the window to the staircase landing of the approved building identified as 'Plot 2' on the approved drawing shall be glazed with obscured glass and shall be fixed so as to be incapable of being opened below a height of 1.8 metres above floor level, and shall be retained in that form thereafter.
- 8) The side ground floor window of the 'family/breakfast area' of the approved building identified as 'Plot 1' on the approved drawing shall be glazed with obscured glass and shall be fixed so as to be incapable of

being opened below a height of 1.8 metres above floor level, and shall be retained in that form thereafter.

- 9) The development hereby permitted shall be used for Class C3 (dwellinghouse[s]) only and for no other purpose (including any other purpose in Class C of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), and notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no development within Class I of Part 3 of Schedule 2 to that Order shall take place.
- 10) The development hereby permitted shall be carried out in accordance with the following approved plans: TL: 1303:01 & TL:1303:02A.