



## Appeal Decision

Site visit made on 17 July 2018

**by Sarah Dyer BA BTP MRTPI MCMI**

**an Inspector appointed by the Secretary of State**

**Decision date: 5<sup>th</sup> September 2018**

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**Appeal Ref: APP/K1935/W/17/3191162**

**377 Jessop Road, Stevenage SG1 5LX**

- 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 Ms Teri-ann Grange against the decision of Stevenage Borough Council.
  - The application Ref 17/00566/FP, dated 11 August 2017, was refused by notice dated 25 October 2017.
  - The development proposed is described as 'extension to existing dwelling and splitting into 2No. 1 bedroom houses'.
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### Decision

1. The appeal is allowed and planning permission is granted for change of use from amenity land to private residential land and erection of a two storey side extension and a single storey rear extension to facilitate the conversion of existing dwelling into 2No. 1 bedroom dwellings at 377 Jessop Road, Stevenage in accordance with the terms of the application, Ref 17/00566/FP, dated 11 August 2017, and the plan submitted with it, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The description of development set out in the banner does not accord with that given on the decision notice, which includes reference to change of use of amenity land to private residential land. The appellant has not indicated that she disagrees with the description set out on the decision notice which appears to me to more accurately describe the proposed development. Therefore, I have used the description of development as set out in the decision notice in my determination of this appeal.
3. The Stevenage Borough Local Plan 2011-2031 (Publication Draft 2016) (the Emerging Plan) has been the subject of examination and has been found to be 'sound'; therefore, it attracts significant weight in my determination of this appeal.
4. During the course of the consideration of this appeal the revised National Planning Policy Framework (the revised Framework 2018) has been published. I have invited both parties to submit comments on the relevance of the revised Framework to this case.

## **Main Issues**

5. The main issues are:

- The effect of the development on the character and appearance of the area.
- Whether the proposed development would provide acceptable living conditions for occupiers of the proposed development with particular regard to amenity space provision.

## **Reasons**

### *Character and appearance*

6. The appeal site (no. 377) is an end of terrace house in an established residential area. Whilst the surrounding houses are of a consistent design and palette of external materials their layout and relationship to Jessop Road is varied and there is no consistent building line. Some terraces of houses are aligned to face the road whilst others including the appeal site run perpendicular to the road and present a gable end to it. A key characteristic of Jessop Road is that it has no pavements and where driveways do not front the road there are grassed verges along the carriageway edge.
7. Insofar as it is consistent with the common theme of housing types and arrangements in the area, no. 377 makes a positive contribution to the overall character of the area and sense of place. The enclosure of space at the end of the terrace by a fence does little to detract from the feeling of spaciousness arising from the width of Jessop Road because a grassed verge has been retained.
8. The majority of the amenity land which would become part of the private amenity space serving one of the new dwellings is already enclosed by a fence. The change of use of this land and realignment of the fence shown on the submitted plans would have a very limited impact on the street scene and would not be harmful to the character and appearance of the area.
9. The two storey side extension would be narrow compared with the width of the house. In the absence of a distinct building line and given the retention of the highway verge it would not appear unduly prominent or out of keeping within the vicinity of the appeal site. The external appearance of the two storey extension and the external alterations to the existing house to facilitate the subdivision would be consistent with the appearance of nearby houses. Also, the use of materials to match the existing would help to ensure that the extension is successfully assimilated into the surrounding area. The two storey side extension would not be harmful to the character and appearance of the area.
10. The typical arrangement of private amenity space in the terrace of houses of which the appeal site forms part is for the space to be split between a rear parking and hard standing area and a front garden facing a pedestrian walkway. Access to the rear is provided by a two way road. The overall appearance of this side of the terrace is one of a parking area with little evidence of use of the hard standing as outdoor leisure space. By contrast the front gardens are generally planted and appear to be actively used as outdoor living spaces. In both cases the amenity spaces are modest in size.

11. The Council notes that the size of the amenity space that would be provided for each dwelling accords with the Council's Design Guide but is concerned about the split between front and rear amenity space, garden depth and boundary treatment. However, the split between front and rear amenity space would be characteristic of the terrace and the depth of each front garden and boundary treatment would be comparable with adjacent gardens. I am, therefore, persuaded that the arrangement of amenity spaces would not be harmful to the character and appearance of the area.
12. The removal of the existing garage and provision of two parking spaces would be consistent with the parking arrangements associated with other houses in the terrace. The rear amenity spaces which include the parking spaces and bin storage areas would be of a sufficient size to enable the provision of these facilities without these areas appearing cramped. Overall, the provision of amenity spaces would be well-organised and would not be harmful to the character and appearance of the area.
13. The Council considers that future occupiers would not be able to erect outbuildings in the front garden space because such buildings would be harmful to the street scene and the gardens would therefore be unusable. I recognise that the limited size of the front garden would restrict the occupier's ability to erect outbuildings, however I see no reason why that would be harmful to the character and appearance of the area.
14. The Council is also concerned about the proposed alterations to access into the houses and the impact of this on their particular design. However the plans indicate that the existing house has a door serving the car parking area and that the primary access to the new houses would be on the same elevation. Given the use of matching materials and the screening effect of boundary fences, the changes to the primary access to the houses would not be evident from the street and would provide a satisfactory access directly from the rear amenity area.
15. The development would be in accordance with the Stevenage Design Guide Supplementary Planning Document (2009) (the Design Guide) which among other things encourages new housing development to be of a good standard of design which enhances the appearance of places and the enjoyment of them.
16. I conclude that the development would not have a harmful effect on the character and appearance of the area. The development therefore complies with policies H7, TW8 and TW9 of the Stevenage District Plan Second Review 1991-2011 (2004) (the District Plan) which amongst other things require that proposals for windfall residential sites have no detrimental effect on the environment and that new development complies with the Council's standards and guidance and meets a high standard of design.

#### *Living conditions*

17. The proposed change of use would allow an increase in the amount of amenity space available to no. 377. However the subdivision of the available space to provide amenity spaces for both new dwellings would result in each house having a smaller amount of amenity space than other houses in the terrace.
18. During my site visit I observed how the front and rear gardens of adjacent houses in the terrace are used. On the basis of these observations and the

submitted plans, I am persuaded that although smaller than adjacent amenity spaces, sufficient space would be provided for facilities such as car parking and bin storage whilst also providing front gardens of a dimension to be useable as outdoor living areas by the residents of the development. The amenity spaces that would be available would contribute positively to the living conditions of future residents of the development.

19. The Council has cited overlooking of the gardens by the occupiers of 379 Jessop Road (no. 379) as an issue for the usability of the front gardens. During my site visit I observed that the orientation of no. 379 is such that any overlooking would be at an oblique angle and the level of overlooking would not be significantly different to that currently possible over the existing front garden.
20. The development would be in accordance with the Design Guide which among other things encourages new housing development to include private garden space which is located conveniently for use by residents.
21. I conclude that the proposed development would provide acceptable living conditions for the occupiers of the proposed development with particular regard to amenity space provision. The development therefore complies with policies TW8 and TW9 of the District Plan which amongst other things require that new development complies with the Council's standards and guidance and meets a high standard of design.

### **Other Matters**

22. In relation to the particular development before me, the relevant policies in the Emerging Plan, which is a material consideration, do not lead me to a different conclusion other than that which I have reached on the main issues.
23. I have carefully considered the concerns raised by a resident in relation to the impact of the development on vehicular access and car parking. I observed during my site visit that the existing fence does not significantly obscure the view of oncoming vehicles at junctions or driveways as a result of the retention of the grass verge. Also double yellow lines are a common feature at junctions in the vicinity of the appeal site and appear to be successful in preventing car parking close to junctions. As a consequence of these observations I have given the comments of the resident only limited weight and they do not dissuade me from the conclusions that I have reached on the main issues.

### **Conditions**

24. I have included the standard time limit condition and a condition to secure compliance with the approved plans to provide certainty.
25. I have amended the condition requested by the Council regarding external materials to relate to matching materials so that it is more precise. I have included the suggested condition regarding the details of boundary treatment and timing of its provision. Both of these conditions are required to ensure that the development preserves the character and appearance of the appeal site and the wider area.
26. The Council has requested two conditions to remove permitted development rights for means of enclosure and extensions and outbuildings. Paragraph 53 of the revised Framework states that planning conditions should not be used to

restrict national permitted development rights unless there is a clear justification for doing so. In this case I have not found a clear justification for the removal of permitted development rights and find both conditions to be unreasonable.

27. I have included all three of the conditions relating to parking and access requested by the Council. I have omitted the words 'constructed to the Local Planning Authority's satisfaction' and 'to the current specification of Hertfordshire County Council' because they are imprecise. These conditions are required in the interests of highway safety and to ensure that residents can access the site safely and that car parking is available.
28. The Council has requested a condition relating to the stopping up of the public highway before the commencement of development which was recommended by Hertfordshire County Council (the Highway Authority). Planning Practice Guidance (the Guidance) states that such conditions should not be used where there are no prospects at all of the action in question being performed within the time limit imposed by the permission and that where the specified action in question is within the control of the local authority determining the application the authority should be able to present clear evidence that this test will be met before the condition is imposed.
29. The Highway Authority has added an informative to its consultation response to the Council to the effect that there is no certainty that a stopping up order would be granted. In the light of this comment, there is no clear evidence that the stopping up would be forthcoming and in consequence the condition does not meet the requirements of the Guidance or the test of reasonableness.
30. In terms of the wider implications of the inclusion of highway land within the application site, the land which is to be stopped up appears to me not to be required in relation to the construction of the extension. Also its exclusion from the garden serving the new dwelling, were the stopping up to prove unsuccessful, would not have a significant effect on the size or usability of this space. A condition to require the stopping up is not reasonable or necessary in these circumstances.
31. I have included a condition relating to construction working hours as this is justified by the close proximity of a number of dwellings and their occupiers who would be adversely affected by noise and disturbance generated by building works outside the hours specified.
32. I am persuaded by the Council's reference to Policy EN36 of the District Plan and Policy FP1 of the Emerging Plan in the officer's report that a condition relating to measures to address adaptation to climate change is justified and I have included that requested by the Council. I do not consider that it is necessary for it to be a 'pre-commencement' condition.

### **Conclusion**

33. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*Sarah Dyer*

Inspector

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plan no. 1198:02E.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the construction of the existing dwelling.
- 4) No development, above slab level, shall take place before details of all walls (including retaining walls), fences, gates or other means of enclosure to be erected in and around the development have been submitted to and approved in writing by the Local Planning Authority. Prior to the first occupation of the development the walls (including retaining walls), fences, gates or other means of enclosure shall be erected as approved and shall thereafter be permanently retained and maintained.
- 5) Prior to the first occupation of the development hereby permitted, the existing access shall be widened to align with the new parking space and the highway verge shall be reinstated in accordance with a specification that has been submitted to and approved in writing by the Local Planning Authority.
- 6) The access shall be extended to a maximum of 5 metres and the access shall be constructed in a hard-surfacing material for a depth of 4.8 metres from the back edge of the footway.
- 7) Prior to the first occupation of the development hereby permitted, the approved parking area shall be marked out with the additional hard-surface area surfaced (in either a porous surface or provision made for a sustainable drainage system) and constructed in accordance with the details identified on drawing 1198:02E and shall be permanently retained in that form for the parking of motor vehicles only.
- 8) No construction work relating to this permission shall be carried out on any Sunday, Public or Bank Holiday nor at any other time except between the hours of 0730 and 1800 on Mondays to Fridays and between the hours of 0900 and 1300 on Saturdays.
- 9) No development, above slab level, shall take place until details of measures to address adaptation to climate change have been submitted to and approved in writing by the Local Planning Authority. These measures shall be implemented and permanently maintained in accordance with the approved details.