

Appeal Decision

Site visit made on 22 February 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/J1915/W/16/3161312

Vintage Court, Cambridge Road, Puckeridge, Herts, SG11 1SA

- 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 The Blake Family against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/0438/FUL, dated 23 February 2016, was refused by notice dated 19 April 2016.
 - The development proposed is demolition of existing retail unit and erection of a three storey extension consisting of two retail units at ground floor, 2no. two bed & 4no. one bed residential units at first and second floor level and a two bed residential unit within the roof space.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Accordingly the main issues are the effect of the scheme on (a) the living conditions of existing occupiers with particular regard to privacy and outlook; (b) the character and appearance of the area and (c) groundwater and controlled water.

Reasons

Living conditions

3. The extended building would effectively have an 'L' shaped footprint. The side elevation of the existing building contains a number of windows. The submitted plans indicate that these relate to the bedrooms and living rooms of existing units. The rear elevation of the addition would contain three windows at first and second floor level. These would be the sole aspect for two of the new units. In particular, due to the resultant footprint of the building, the bedroom windows of these and existing units would be in close proximity to one another. As such there would be inter visibility between two of the proposed units and the existing dwellings.
 4. The addition would be three storey in height. The side element would be in close proximity to bedrooms at first and second floor and a living room window at ground floor of the existing units. The new building would be taller and immediately adjacent to these windows. As such it would be visible and dominant when viewed from the windows of the existing units.
 5. I therefore conclude that the proposal would have a harmful effect on the living conditions of existing occupiers with particular regard to outlook and privacy.
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It would be in conflict with East Herts Local Plan Second Review (LP) policy ENV1 which amongst other things sets out that new development should respect the amenity of occupiers of neighbouring buildings and ensure that they are not harmed by inadequate privacy. It would also be in conflict with the National Planning Policy Framework (the Framework) which seeks a good standard of amenity for all existing and future occupants of land and buildings.

Character and appearance

6. The scheme would be an addition to the existing building, which is three storey in height at the rear. The element that fronts the adjacent petrol forecourt is currently described as a two building with a ground floor antiques business. Therefore the addition would increase both the footprint and height of the front part of the building.
7. It would provide an addition to the building that would include retail space at ground floor for the antiques business and the garage. Above this seven new residential units would be included. In order to accommodate this the footprint would increase along the site frontage and the building height would increase. The addition would be treated with a gable end above the garage retail area and the side element would have a hipped roof. In both cases the material and window detail would match the existing building.
8. The area is identified as rural and within the green belt. However, it currently contains a large building. In addition it sits within built form in this locality of varying scale, form and appearance. In addition the building would be set behind the existing canopy and forecourt area of the Petrol Filling Station. This would serve to lessen its impact. Therefore, overall, a well designed building of the scale proposed would not be unduly prominent in this context.
9. I therefore conclude that the proposal would not harm the character and appearance of the area. It would therefore not be in conflict with LP policy ENV1 in so far as it requires all development proposals to be of a high standard of design, reflect local distinctiveness and be compatible with the layout and massing of the surrounding area.

Groundwater and controlled water

10. The appellant provided a Phase I/II Geoenvironmental report which was subsequently provided to the Environment Agency (EA) by the Council. The formal comments on this report confirmed that it provided sufficient information to allow proper assessment of the risk of pollution to ground water and controlled water. This would be subject to appropriately worded conditions had I been minded to allow the appeal. I have no reason to disagree with the views of the EA.
11. I therefore conclude that the proposal would not have a harmful effect on groundwater or controlled water. It would not be in conflict with LP policy ENV20 which seeks to resist development that may cause contamination of or prejudice groundwater.

Other matters

12. The site is located in a location that the Council describe as a '*rural area outside of the Green Belt*'. As such policies of restraint within the development plan are referred to, in particular GBC2 and GBC3 of the LP. The appeal

scheme would not represent a new building for any of the exceptions identified within GBC3. As such it would represent inappropriate development as defined by GBC2.

13. It is apparent that a five year supply of deliverable housing land cannot be identified in the area. There is no dispute between the parties on this issue. Paragraph 49 of the Framework states that in these circumstances relevant policies for the supply of housing should not be considered up to date. Paragraph 14 of the Framework states that there should be a presumption in favour of sustainable development. Where relevant policies are out of date permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits taking account of the Framework as a whole.
14. In this case the scheme would provide 7 dwellings that would represent a benefit. It would also provide reconfigured retail provision for the existing employment uses on the site. I have also found that there would not be harm to character and appearance as a result of the scheme. As such there would not be conflict with the economic and environmental aspects of sustainable development. However, the proposal would not represent a sustainable development when considered against paragraphs 7 and 8 of the Framework which require the economic, social and environmental dimensions of sustainable development to be considered together as there would be harm to the living conditions of existing occupiers which would conflict with the social aspect. In this regard there is clear conflict with the development plan. Therefore the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits such that the proposal would not represent sustainable development.

Conclusion

15. For the reasons given above and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR