



Appeal Decision

Site visit made on 2 July 2019

by David Troy BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: Thursday, 11 July 2019

Appeal Ref: APP/J1915/W/19/3226192

244 Hertingfordbury Road, Hertford SG14 2LG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with a condition subject to which a previous planning permission was granted.
 - The appeal is made by Paliadon against the decision of East Hertfordshire District Council.
 - The application Ref 3/19/0135/VAR, dated 24 January 2019, was refused by notice dated 21 March 2019.
 - The application sought planning permission for conversion of former public house into a single dwelling with partial demolition of rear of the property to provide a terrace, garden area and double car port and change to fenestrations. Erection of a terrace of 2no. 2 bedroom and 2no. 3 bedroom cottages with 7no. car parking to rear of 244 Hertingfordbury Road without complying with a condition attached to planning permission Ref 3/18/2170/FUL, dated 19 December 2018.
 - The condition in dispute is No 7 which states that: *The proposed first floor window openings to the rear of the terraced row of cottages shall be fitted with a minimum level 4 obscure glazing and non-opening to a minimum height of 1.7m above internal finished floor level (FFL) and shall be permanently retained in that condition unless it can be demonstrated that internal window cill levels are set at a minimum height of 1.7m above FFL.*
 - The reason given for the condition is: *To safeguard the privacy of occupiers of the adjoining property, in accordance with policies DES4 of the East Herts District Plan 2018.*
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Decision

1. The appeal is allowed and planning permission is granted for conversion of former public house into a single dwelling with partial demolition of rear of the property to provide a terrace, garden area and double car port and change to fenestrations. Erection of a terrace of 2no. 2 bedroom and 2no. 3 bedroom cottages with 7no. car parking to rear of 244 Hertingfordbury Road at 244 Hertingfordbury Road, Hertford SG14 2LG without complying with condition No. 7 previously imposed on planning permission Ref 3/18/2170/FUL, dated 19 December 2018, but subject to the conditions in the attached schedule.

Background and Main Issue

2. Planning permission was granted for the conversion of a former public house to a single dwelling with associated works and the erection of a terraced row of

four cottages at the rear of 244 Hertingfordbury Road in December 2018¹. The appellant seeks to vary condition No. 7 of the previous permission in order to allow the first floor window openings to the rear of the terraced row of cottages to be fitted with clear glazing with the ability to be fully opening.

3. Paragraph 55 of the National Planning Policy Framework February 2019 (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. With this in mind, the main issue is whether condition No. 7 is reasonable and necessary to safeguard the living conditions of the occupiers of the neighbouring property at 242 Hertingfordbury Road with particular regard to privacy.

Reasons

4. The appeal site comprises a former public house and a terraced row of four, two storey cottages, currently under construction, on the northern side of Hertingfordbury Road. Residential properties are located immediately behind the row of cottages. I observed on my site visit, that the closest of these, a two storey dwelling at No. 242 Hertingfordbury Road (No. 242) with its long rear garden, flanks onto and is elevated above the appeal site on higher ground.
5. The first floor windows in the terraced row of cottages would be set back at an oblique angle to the windows at the side and rear of the neighbouring property at No. 242. The development would be separated from the rooms and garden area at the side and rear of No. 242 by a high wall and close boarded fence running along the rear boundary of the appeal site.
6. Whilst I accept that there would be some impact from the proposal, given the design of the development, boundary treatment, site levels, separation distance between the properties and the orientation of the buildings, I do not consider that the proposal would cause significant harm to the privacy, nor result in significant overlooking of the occupiers in the rooms and garden at the side and rear of the adjacent property at No. 242.
7. The principle of the first floor bedroom windows openings to the rear of the terraced row of cottages being fitted with clear glazing and fully opening has already been approved under the previously approved schemes granted in July 2017² and June 2018³. The submitted plans and supporting evidence illustrate that the row of cottages in the appeal scheme would be positioned about 700mm further from the rear boundary of the site. As such the relationship between the development and adjacent properties would not be significantly materially different to the previously approved schemes.
8. Consequently, I conclude that condition No. 7 is not reasonable and necessary to safeguard the living conditions of the occupiers of the neighbouring property at No. 242 with particular regard to privacy. The proposed development would accord with the overall amenity aims of Policy DES4 of the East Herts District Plan 2018. This policy seeks, amongst other things, to ensure that the proposal avoid significant detrimental impacts on the amenity of the occupiers of neighbouring properties and land and ensure that their environments are not harmed by inadequate privacy.

¹ 3/18/2170/FUL

² 3/17/1150/FUL

³ 3/18/1181/NMA

Other Matters

9. I have noted the objections from the third parties to the appeal proposal relating to the impact on the amenities of neighbouring properties, the character and appearance of the area and the overdevelopment of the site. However, I have addressed the matters relating to the living conditions of the occupiers of the neighbouring property in the main issue above. The other matters raised did not form part of the Council's reason for refusal. I have considered the appeal entirely on its own merit and, in the light of all the evidence before me, this does not lead me to conclude that these other matters, either individually or cumulatively, would be an over-riding issue warranting dismissal of the appeal.

Conditions

10. In allowing the appeal and granting the planning permission, I have considered both those conditions imposed on the original planning permission and those suggested by the Council, but with some variations to the wording to reflect that the development has already commenced. A standard time limit condition relating to the commencement of development is not considered necessary. The Planning Practice Guidance advises that the original conditions should be re-imposed if not discharged and this is what the Council have sought. As I have no information before me about the status of the conditions imposed on the original planning permission, I shall impose all of those that I consider remain relevant. In the event that some have in fact been discharged, that is matter which can be addressed by the parties.

Conclusion

11. For the reasons given above, and having regard to all other matters raised, I conclude that condition No. 7 should be varied and the appeal should be allowed.

David Troy

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: -
1372_VoC_001 (Site Plan); 1372_VoC_002 (Section Details);
1372_VoC_003 (Proposed Elevations, Site and Roof Plan);
1372_VoC_004 (Proposed Plans).
- 2) Samples of the external materials of construction for the building hereby permitted shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be implemented in accordance with the approved materials.
- 3) Detailed plans showing the existing and proposed ground levels of the site relative to adjoining land, together with the slab levels and ridge heights of the proposed buildings, shall be submitted to, and approved in writing by the Local Planning Authority and the development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of any dwellings hereby approved, details of all boundary walls, fences or other means of enclosure shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be erected and retained in accordance with the approved details.
- 5) Detailed drawings of new doors and windows at a scale of not less than 1:20 including materials and finishes shall be submitted to and approved in writing by the Local Planning Authority, and the development shall be carried out in accordance with the approved plans and specification.
- 6) Before first occupation of the approved development, the modified access serving the development shall be completed in accordance with the approved in principle plan (drawing number SK20 Revision B) (and shall also include kerb upstands on the junction radii) and constructed to the specification of the Highway Authority and Local Planning Authority's satisfaction.
- 7) Visibility splays shall be provided and permanently maintained in each direction in accordance with the approved in principle plan, drawing number SK20 Revision B.
- 8) The use of the land for vehicular parking shall not be commenced until the area has been laid out, surfaced and drained in accordance with details first submitted to, and approved in writing, by the Local Planning Authority and shall be maintained thereafter to the Authority's satisfaction.
- 9) Before first occupation of the development, the footway treatment and parking scheme on Hertingfordbury Road as illustrated on drawing number SK20 Revision B shall be completed to the satisfaction of the Highway Authority.
- 10) Best practical means shall be taken at all times to ensure that all vehicles leaving the development site during construction are in a condition such as not to emit dust or deposit mud, slurry or other debris on the highway. In particular (but without prejudice to the foregoing), efficient means shall be installed and thereafter maintained and employed at all times during construction of the development. This should include cleaning the wheels of all construction vehicles leaving the site.

- 11) A Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. Thereafter, the construction of the development shall only be carried out in accordance with the approved Plan. The Construction Traffic Management Plan shall identify details of:
 - Phasing for the development of the site, including all highway works;
 - Methods for accessing the site, including construction vehicle numbers and routing;
 - Location and details of wheel washing facilities; and
 - Associated parking areas and storage of materials clear of the public highway.
- 12) Prior to first occupation of the development hereby approved, details of landscaping shall be submitted and approved in writing and shall include full details of both hard and soft landscape proposals, finished levels or contours, hard surfacing materials, retained landscape features, planting plans, schedules of plants, species, planting sizes, density of planting and implementation timetable and thereafter the development should be implemented in accordance with the approved details.
- 13) In connection with all site demolition, site preparation and construction works, no plant or machinery shall be operated on the premises before 0730hrs on Monday to Saturday, nor after 1830hrs on weekdays and 1300hrs on Saturdays, nor at any time on Sundays or bank holidays.
- 14) A scheme for the on-site storage and regulated discharge of surface water run-off and a scheme for the disposal of foul water has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.