



Appeal Decision

Site visit made on 13 August 2019

by Helen O'Connor LLB MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 August 2019

Appeal Ref: APP/A1910/W/19/3228386

Nissel House, Fensomes Close, Hemel Hempstead HP2 5DH

- 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 Terry Potts of Avon Services against the decision of Dacorum Borough Council.
 - The application Ref 4/02338/18/FUL, dated 16 September 2018, was refused by notice dated 19 February 2019.
 - The development proposed is the creation of 3no. 1 bed units and 2no. 2 bed units from the conversion and part demolition of the existing buildings on the site.
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Decision

1. The appeal is allowed and planning permission is granted for the creation of 2no. 1 bed units and 2no. 2 bed units from the conversion and part demolition of the existing buildings on the site at Nissel House, Fensomes Close, Hemel Hempstead HP2 5DH in accordance with the terms of the application, Ref 4/02338/18/FUL, dated 16 September 2018, subject to the conditions set out in the attached schedule.

Procedural Matters

2. In my heading above, I have used the description of development in the planning application form. However, during the course of the planning application the proposal was amended to remove 1no. 1 bed unit and this was the scheme upon which the Council made their decision. Therefore, I have considered the appeal on this basis, and the description of the development in my decision reflects this.

Main Issues

3. The main issues are:
 - The effect of the proposal on the character and appearance of the area with particular reference to density, and;
 - The suitability of the access and parking arrangements having regard to local and national policies.

Reasons

Character and Appearance

4. The appeal site is located in a predominantly residential area within which there is a mixture of housing types and densities in evidence. The dwellings nearest the appeal site, although reflecting a range of ages, take a traditional form, regularly set back from the street but with longer rear gardens and so, have a low to medium density. However, further to the west there is an apartment block and a residential care home reflecting a higher density form of development. The range of development combines to result in a somewhat mixed, but pleasant sub-urban character and appearance to the area.
5. The appeal site is somewhat at odds with the majority of the surrounding residential development in terms of its commercial use, site coverage and utilitarian form. The lack of an obvious principal elevation and expanse of flat roof over the garaging and workshops do little to enhance the appearance of the street. Nevertheless, this is tempered by the relatively modest scale of the site which has a discreet location in a private road.
6. The proposal would convert much of the existing building and the provision of communal open space would reduce the existing footprint and site coverage. Furthermore, the flat roof over the workshops and garaging would be replaced with a mansard style roof which would result in the overall height of the single bedroom dwellings being broadly similar to the eaves height of Nissel House. Notwithstanding the modest increase in height of the building, when combined with changes to the roof form, reduction in footprint and provision of garden space, there would be a reduction in the overall massing of the built form. As a result, the appeal proposal would appear more spacious than the existing buildings.
7. I acknowledge that the development would reflect a higher density than the dwellings in the immediate vicinity. However, given the mixed character of the wider area there is room for a degree of variety. Moreover, an increase in density does not necessarily result in a harmful impact on the surroundings. The tightly knit built form of the existing buildings and their relatively unobtrusive position in Fensomes Close would assist in the proposed development being absorbed into the general mix of residential development, without undermining or harming the overall pleasant suburban character.
8. Saved policy 10 of the Dacorum Borough Local Plan 1991-2011, April 2004 (LP) encourages optimising the use of urban land by supporting the maximum density compatible with the character of the area. In addition, policy 18 of the LP expressly refers to the need for 1-2 bedroom units to accommodate small households. Further support for higher density development in appropriate locations can be found in policy 21 of the LP which promotes the more efficient use of land, especially where there is good access to local facilities and public transport. Notwithstanding that some nearby residents have indicated a preference for a fewer number of units providing family housing, the provision of 1 and 2 bedroom dwellings would be beneficial as it would address provision supported by the development plan.
9. Furthermore, these policies align with advice in paragraphs 122 and 123 of the National Planning Policy Framework (the Framework) which encourages development that makes more efficient use of land by using higher densities.

The development would also accord with the advice in paragraph 117 of the Framework which promotes the use of previously developed land.

10. Accordingly, I find that the proposal would respect the character and appearance of the area and would comprise a density that is compatible with its surroundings. Therefore, I find no conflict with policies CS11 and CS12 of the Dacorum Borough Council, Core Strategy 2006-2031, September 2013 (CS) which, amongst other matters, seek to ensure a good quality of design for new development that respects the general character of the local area. In addition, it would accord with policies 10, 18 and 21 of the LP which, amongst other matters, seek to promote the efficient use of land using compatible densities with the surrounding area and the provision of a mix of housing with particular reference to small households.

Access and Parking

11. Fensomes Close is a short, reasonably straight private road with a dead end for vehicular traffic, the restricted width of which would generally prevent the passage of two way movements. It is accessed at the corner of East Street and Broad Street and there is a pavement on one side leading to a pedestrian route to Christchurch Road, through which cycling is prohibited.
12. The proposal would use the existing vehicular access and the proposed area for the five parking spaces shown in Drawing reference 1801 A100 001 P3 indicates that it would be similar in size and configuration to the currently available parking space serving the commercial uses.
13. The Highway Authority have not raised an objection to the use of the access or provision of parking in this location. Given their technical expertise and local knowledge, I have attributed significant weight to their views. Furthermore, as the 4 dwellings would displace the existing commercial use of the site as well as garaging, the traffic generated by the development is unlikely to be significantly more harmful than the present uses¹, with the nature and size of vehicles likely to be commensurate with domestic use.
14. The amount of car parking provided accords with the maximum standard of 5.5 spaces set out in Appendix 5 of the LP for the 4 dwellings proposed. In addition, given the reasonably good access to local facilities and public transport, I have not seen evidence that would justify requiring spaces in excess of the adopted maximum standard.
15. Although some residents raise concerns that the proposal would result in a more intensive use of the parking area, with parked vehicles projecting further into Fensomes Close, it is not shown that there are restrictions controlling how or when commercial vehicles can presently park within the space. Although I accept that past experience indicates that the use of the parking area outside of business hours has been limited, this does not signify it would continue to be case, nor that business hours would necessarily remain the same. Accordingly, this attracts limited weight.
16. Nevertheless, taking the relatively limited width of Fensomes Close and the recommendations of the Highway Authority into account, I concur that the spaces provided should be wider than the normal standard of 2.4 metres in order to allow opportunities for greater manoeuvring. Furthermore, an area

¹ Council appeal statement refers to large vehicles often visiting the site

should be kept free of parking to allow for the turning of service or visitor vehicles to avoid the need to reverse towards Broad Street. Based on the submitted plans and my observations on site, there would be adequate space to incorporate such measures in order to assist the movement of vehicles in Fensomes Close. This could be secured by using a planning condition to agree a detailed parking layout.

17. I acknowledge that the width of Fensomes Close is restricted to an extent. However, the parking provided is shown as being contained within the appeal site and the evidence does not show that, subject to a detailed parking layout being agreed, a suitable amount and arrangement of spaces could not be provided. Furthermore, I have seen limited evidence to suggest that it is so restricted that parked and manoeuvring vehicles would affect the pedestrians using the pavement and route to Christchurch Road and I have given weight to the comments of the Highway Authority in this regard.
18. I have had regard to the concerns of nearby residents that the parking arrangements would prevent other residents of Fensomes Close from accessing or egressing their property. Given that I have found that the proposed parking and access arrangements would be unlikely to result in harm in comparison to the existing situation, it follows that the development is unlikely to cause harm to highway safety or to the general living conditions of nearby residents. Furthermore, it is an established principle that the planning system does not exist to protect private interests, as there is specific separate redress for landowners to protect their private land rights.
19. Although concerns have been raised in relation to access for emergency vehicles the evidence suggests that the layout would allow for emergency vehicle access to within 45 metres of all dwellings which adheres to the recommendations in relevant national and local guidance². Moreover, there is little robust evidence to substantiate concerns regarding refuse collection given that the Highway Authority find the arrangements would be acceptable.
20. Accordingly, the proposal would not significantly alter the existing access and parking arrangements and therefore, would be unlikely to harmfully impact on the movement of pedestrians and vehicles within the immediate area. Having regard to the advice in paragraph 109 of the Framework, the appeal proposal would not result in an unacceptable impact on highway safety and nor would the residual cumulative impacts on the road network be severe.
21. Therefore, I find that, subject to an appropriate condition, the development would accord with the relevant objectives in policies CS8, CS9 and CS12 of the CS in that it would provide a satisfactory means of access and sufficient, safe and convenient parking based on adopted car parking standards such that it would allow for the safe movement of other road users and pedestrians. Furthermore, it would not conflict with the requirements of policy 51 of the LP, which amongst other matters, requires new development to have suitably designed parking areas of an appropriate capacity.

² Manual For Streets & Roads in Hertfordshire; A Design Guide and Building Regulations 2010: Fire Safety Approved Document B vol 1 – Dwellingshouses.

Other Matters

22. The replacement of the commercial use of Nissel House, the workshops and garages with a residential use would be compatible with the surrounding residential uses. I have had regard to the objections raised by some local residents that the development would unacceptably harm their living conditions by reducing privacy. However, this was not a matter raised by the Council and the proposal will to a significant extent reuse an existing building. Nevertheless, two additional ground floor, high level bedroom windows are shown on the north and west elevations respectively. Given the proximity of the building to the generally private gardens of the adjoining dwellings it would be necessary in the interests of safeguarding the privacy of nearby residents to ensure that these windows remain high level and furthermore, that no additional windows are inserted into the rear and side elevations.
23. There is no firm evidence, given the modest scale of the development, to suggest that it could not be appropriately drained or would otherwise result in an unacceptable strain on local utilities. Further concerns are raised that, in light of the commercial use of the building, chemicals may have been stored at the site. Paragraph 179 of the Framework advises that where a site is affected by contamination, primary responsibility for securing a safe development rests with the developer and/or landowner, and I have not seen specific evidence to suggest there would be a significant risk in relation to the appeal site such that additional safeguards would be justified.

Conditions

24. Although the Council have not suggested any conditions in relation to the appeal, I have had regard to the 7 recommended conditions in the officer report to the planning committee. The three year period in which the planning permission may be implemented is a statutory requirement but I also consider that it is necessary in the interests of clarity to specify the plans that are approved, and that the development shall be undertaken in accordance with these. Conditions requiring agreement in relation to the external materials and landscaping of the outdoor space are reasonable and necessary in order to protect the character and appearance of the area. However, these are not such fundamental matters that details need to be submitted prior to the commencement of any development. In addition, I have adjusted the wording of the landscaping condition to make it more proportionate to the nature and size of the space provided.
25. For the reasons outlined above, a condition to agree and secure the parking layout and turning space is necessary in line with the recommendation of the Highway Authority, to allow for greater opportunities to manoeuvre into and out of the spaces.
26. I accept it is important to ensure the provision of cycle storage and bin storage facilities prior to the occupation of the dwellings. However, these areas are shown on the submitted plans, and the Council have not suggested that they would be inadequate. Moreover, the Highway Authority comments indicate that they have no objection to the details provided. As such, the condition wording need only secure the implementation of the details already shown rather than the submission of additional plans.

27. The committee report suggests that a construction management plan should be agreed prior to the commencement of development. Planning Practice Guidance (PPG) advises that such pre-commencement conditions should only be used where they are so fundamental to the development permitted it would have been otherwise necessary to refuse the whole permission. There is little evidence to suggest that a development proposal of this relatively modest scale would result in a significant highway safety concern even during construction, and therefore it would be disproportionate to impose a condition in these circumstances. Accordingly, I do not consider this condition would meet the tests set out in the Framework or the PPG.
28. Finally, although not suggested by the committee report, I have imposed a condition to prevent the insertion of additional windows, or alterations to those approved, in the north, south and west elevations of the development. The additional windows in the proposal on those elevations are high level windows, which would prevent intrusive views, however if additional or larger windows were to be inserted, this would be likely to result in an unacceptable loss of privacy to the more private garden areas of nearby dwellings as well as the communal amenity space for the development itself.

Conclusion

29. For the reasons given above I conclude that the appeal should be allowed.

Helen O'Connor

Inspector

Schedule of Conditions (7 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 following approved plans: 1801 A000 001 P3 Site Location and Block Plan, Existing and Proposed; 1801 A100 001 P3 GA-Layouts Existing and Proposed; 1801 A110 001 P4 Elevations Existing and Proposed; 1801 A110 002 P4 Elevations Existing and Proposed and 1801 A110 003 P3 Elevations Existing and Proposed.
- 3) Prior to the relevant part of the works commencing details of the materials to be used in the construction of the external surfaces of the extension hereby permitted shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Prior to the first occupation of the development hereby approved details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i) Hard surfacing materials;
 - ii) Means of enclosure;
 - iii) Planting plan noting species and plant sizes;
 - iv) Implementation programme.

The landscaping works shall be carried out in accordance with the approved details and implementation programme.

- 5) Prior to the first occupation of the development hereby approved full details of the layout and dimensions of the parking spaces and arrangements to keep an area free of parked vehicles to provide a turning area shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt the width of the parking spaces should be greater than 2.4 metres. Development shall be carried out in accordance with the approved details and arrangements with the parking spaces and turning area provided prior to the first occupation of the development, and thereafter retained for those purposes.
- 6) Prior to the first occupation of the development hereby approved, the cycle and bin storage shown on plan reference 1801 A100 001 P3 shall be provided, and thereafter retained for that purpose.
- 7) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification), no windows or window enlargements or alterations other than those expressly authorised by this permission shall be constructed on the north, south and west elevations of the development.