
Appeal Decision

Site visit made on 27 November 2019

by M Savage BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 January 2020

Appeal Ref: APP/C1950/C/19/3226139

30 Astwick Avenue, Hatfield, Hertfordshire AL10 9LA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Ms Amanda Paris against an enforcement notice issued by Welwyn Hatfield Borough Council.
 - The enforcement notice was issued on 6 March 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the material change of use of a summerhouse to a self-contained unit for residential occupation.
 - The requirements of the notice are:
 - (a) Permanently cease the residential use of the summerhouse outlined and shaded blue on the attached plan.
 - (b) Permanently remove the kitchen to include oven, hob, extractor unit, sink, worksurfaces, kitchen style cupboards and all residential paraphernalia from the Land.
 - (c) Remove from the Land all materials, debris, plant and equipment associated with requirements (a) and (b).
 - The period for compliance with the requirements is two months.
 - The appeal is proceeding on the grounds set out in section 174(2)[a], [f] and [g] of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is allowed on ground [g] and it is directed that the enforcement notice be varied by:
 - The deletion of the words 'two' months in relation to the time period for compliance at section 5 and the substitution of 'seven' months as the period for compliance.
2. Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

3. The site visit was arranged on the basis that I would be accompanied by the appellant and a representative of the Council. However, the Council's representative was not there at the appointed time. In order to avoid delaying the site visit, and in the absence of a representative of the Council, the appellant gave me access to the property and I carried out the site visit unaccompanied.
4. Within the enforcement notice, the Council has referred to a number of policies contained within the Welwyn Hatfield Borough Council Draft Local Plan

Proposed Submission document (August 2016). At the time of writing this report, the Plan remains unadopted. Since its policies are subject to change, I afford them very limited weight in this appeal.

Background

5. An appeal relating to the site, reference APP/C1950/W/18/3218329, for the change of use of summerhouse to a single residential dwelling, was dismissed on 28 June 2019.

Ground (a)

Main Issues

6. The main issues of the appeal are:
 - Whether the appeal building provides adequate living conditions for its occupants and the effect of the dwelling on the living conditions of neighbours, having particular regard to overlooking, noise and disturbance; and
 - The effect of the dwelling on the character and appearance of the area; and
 - Whether the dwelling makes satisfactory provision for car parking, bin storage and cycle storage.

Reasons

Living conditions

7. The appeal property is located in a generally residential area comprising a mix of semi-detached and terraced dwellings fronting onto the highway. The building comprises a detached single storey building timber-clad building which is located towards the end of the rear garden of No 30 Astwick Avenue, a two storey terraced dwelling, with a dormer window on the 2nd floor. The building comprises a shared living/bedroom/kitchen area with a separate show room with wc and is occupied as a separate unit of accommodation.
8. There is a single window to the front elevation of the building which faces towards the rear of No 30. To the front of the building is a raised decking area with a low-level gate providing direct access to the garden of No 30. Access to the building is gained via a pathway between No 30 and 28 with a gate leading to the decking area. I saw that there is a degree of overlooking between other properties in the area. However, properties along this side of Astwick Avenue generally face in the same direction, resulting in limited direct overlooking.
9. Policy D1 of the Welwyn Hatfield District Plan (WHDP) 2005¹ seeks to secure development that is of a high quality and is supplemented by Supplementary Design Guidance (SDG)(2005) which states that the Council expect all new residential development to be designed, orientated and positioned in such a way to minimise overlooking between dwellings, which would affect their internal living areas and their private rear gardens or amenity areas.
10. The appeal building directly faces the rear of No 30 with a significant level of overlooking between the two properties. Although the rear garden to No 30 is a

¹ Adopted April 2005

generous size and the appeal building is single storey, the separation distance is insufficient to prevent overlooking between the two properties. Users of the rear garden of No 30 would be able to look into the window of the appeal building and users of the amenity space would be able to look directly into the patio doors of the ground floor of No 30.

11. There is a significant level of overlooking between the amenity space to the front of the building and the rear garden of No 30 which the low-level metal fencing does little to mitigate. Noise and disturbance generated by the occupants of both the appeal building and No 30 would compound this loss of privacy. I consider such overlooking and loss of privacy is harmful to the living conditions of occupants of both the appeal building and No 30. This would be contrary to Policy D1 of the WHDP and the SDG, the requirements of which are set out above.
12. The Inspector, in relation to APP/C1950/W/18/3218329, found that the internal and external space provided by the building has the basic facilities for everyday living and its rectangular shape means that there is space for furniture and circulation. Neither Policy D1 of the WHDP or the SDG specify space standards or require adherence to the National Space Standards and, following my inspection of the site I would agree that there is sufficient internal and external space. As such, there would be no conflict with Policy D1 or the SDG in this regard.

Character and appearance of the area

13. Astwick Avenue is a generally residential area characterised by semi-detached and terraced dwellings with a similar building pattern with outbuildings to the rear a common feature. Policy H2 of the WHDP) sets out the criteria against which applications for windfall residential development will be assessed. Criterion (v) requires consideration of the physical and environmental constraints on development of land.
14. As set out above, Policy D1 of the WHDP seeks to secure development that is of a high quality and Policy D2 of the WHDP seeks to ensure that development respects and relates to the character and context of the area in which it is proposed. The SDG has similar design aims. Section 12 of the National Planning Policy Framework (the 'Framework')(2019) seeks to achieve well-designed places. In particular, paragraph 127 seeks to ensure developments are sympathetic to local character.
15. The Council advise that the building would not be precluded from being permitted development by any of the limitations or conditions applied to Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) and the enforcement notice does not require the removal of the appeal building.
16. When considering the effect of the character of a development on an area it is important to consider both its appearance and function. Whilst the building could remain in situ, a detached dwelling to the rear of the dominant building line would be at odds with existing development along Astwick Avenue and, as a result, would diminish the character of the area.
17. I acknowledge that there would be very limited public views of the building, that the scale of the development is modest, and therefore the effect on the

appearance of the area would be very limited. However, I am mindful that this sort of development could be replicated elsewhere in the area. Thus, the appeal scheme would conflict with Policies H2, D1 and D2 of the WHDP, the SDG and the Framework, the requirements of which are set out above.

Car parking, bin and cycle storage

18. Policy M14 of the WHDP states that the Council will require parking provision for new development to be made in accordance with the standards set out in the Council's supplementary planning guidance on parking. The Supplementary Planning Guidance Parking Standards (SPGPS)(2004) identify maximum standards. Paragraph 106 of the Framework states that 'Maximum parking standards for residential...development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network...'.
19. The Council asserts that the approach set out in the SPGPS does not accord with the Framework and so has published an Interim Policy for Car Parking Standards and Garage Sizes (IPCPS)(2014) which states that the Council will treat all car parking standards set out within the SPGPS as guidelines rather than maximums and sets out that applications will be determined on a case-by-case basis taking account of existing standards, the Framework, the relevant circumstances of the proposal, its site context and its wider surroundings.
20. The Council assert that the SPGPS suggest that one off-street space should be provided for the appeal building and three parking spaces should be provided for No 30. Two off-street parking spaces are available to the front of No 30. I note from the Council's statement that the current occupier of the appeal building park their vehicle on the shared access/driveway between No 30 and No 28 Astwick Avenue. However, some of the driveway is located outside the application site. As such, the appeal scheme would not accord with the SPGPS. However, given the advice contained within the Framework set out above, I afford any conflict with Policy M14 and the SPGPS very limited weight.
21. Astwick Avenue is a generally wide, tree lined road with parking on both sides. I visited the area on a weekday between 15:00 and 15:45 and was able to observe on street parking pressures at a time when parents were collecting their children from school. Although on-street parking was well used, I saw that there were a number of on-street parking spaces available during that time. Whilst this is just a snapshot in time, since many properties along the road have access to off-street parking, outside school hours, I consider it likely that on-street parking would be more readily available.
22. The appeal site is within an area which is close to a variety of local amenities, reducing the need for a private car and as a consequence, on-street parking demand by residents. Given this, and the modest scale of the dwelling, I consider it unlikely that the appeal scheme would therefore significantly increase parking pressure on the road and there would be no harm in this respect.
23. The raised decking area provides amenity space for the building which could accommodate bin storage and cycle storage. Although details have not been provided, I consider that this is something that could be addressed via condition. As such, there would be no conflict with Policies D1 or D2 of the WHDP or the SDG in this regard.

Conclusion on Ground (a)

24. The appellant asserts that the dwelling would make provision for much needed housing. However, the benefits of one additional dwelling would be very limited and, accordingly, I afford it very limited weight. The appellant asserts that the site was previously developed as it involves the conversion of an existing building. However, the Framework specifically excludes land in built-up areas such as residential gardens from the definition of previously developed land. Furthermore, any benefit arising from the reuse of the building would be outweighed by the harm I have identified above.
25. I acknowledge that there would not be a significant increase in pressure on infrastructure due to the modest nature of the development. However, this would be a neutral factor and would not weigh in support of the appeal scheme. Given the unacceptable impact of the development on living conditions and the character and appearance of the area, I am satisfied that the appeal on ground (a) should fail.

Ground (f)

26. An appeal on ground (f) is made on the basis that the steps required by the notice to be taken, or the activities required by the notice to cease, exceed what is necessary to remedy any breach of planning control which may be constituted by those matters or, as the case may be, to remedy any injury to amenity which has been caused by any such breach.
27. The appellant asserts that the requirement (b) of the notice is excessive as an ancillary outbuilding subservient to the host dwelling may include cooking facilities. However, the cessation of the use without removal of the facilities which enable that use would provide no control on the future use of the outbuilding without continual monitoring, which would be unreasonable. Furthermore, I am not satisfied that it would remedy the breach of control, which would require both the cessation of the use and the works that facilitated that change of use to be removed.
28. Accordingly, the appeal on ground (f) fails.

Ground (g)

29. An appeal on ground (g) is made on the basis that any period specified in the notice in accordance with section 173(9) falls short of what should reasonably be allowed. The appellant submits that the period of compliance would cause the existing tenants to be homeless and that a period of twelve months would be both reasonable and practical. The Council, however, asserts that there are a variety of 1 and 2 bedroom rented properties being advertised within the Hatfield area.
30. I have no details of the terms of the tenancy held by the current occupier and so there is no substantive evidence of any notice period. Nevertheless, I agree that a period of two months is unlikely to be sufficient to enable the occupier to find suitable alternative occupation, remove their possessions and for the works to the building to be completed. In my experience, short term tenancy agreements tend to cover periods from around six months. I therefore consider a period of seven months would be a more reasonable time frame to reflect the period of any short term tenancy, and to allow an additional month for the works to be carried out. I shall therefore vary the terms of the enforcement

notice accordingly. In this respect, therefore, the appeal on ground (g) succeeds.

Conclusion

31. For the reasons given above I conclude that a reasonable period for compliance would be seven months. The appeal under ground (g) succeeds to that extent. I shall vary the enforcement notice in respect of the time period for compliance but, subject to that variation, the appeal shall be dismissed and the enforcement notice upheld.

M Savage

INSPECTOR