
Appeal Decision

Site visit made on 5 February 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 April 2020

Appeal Ref: APP/A1910/W/19/3241621

Windsor Court, Corner Hall, Hemel Hempstead HP3 9AW

- 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 Kevin Langley (CKA Architectural Consultants Ltd) against the decision of Dacorum Borough Council.
 - The application Ref 4/01173/19/MFA, dated 9 May 2019, was refused by notice dated 10 October 2019.
 - The development proposed is rooftop extension to form 16 No. Dwellings, with associated car parking amendments.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. In the Council's appeal statement, it highlighted that there should have been a third reason for refusal in relation to the provision of affordable housing. Consequently, I have determined that this should be a main issue for the appeal. During the course of the appeal the appellant was given the opportunity to comment on this aspect.
3. The appellant has confirmed, in an email dated 25 November 2019, that the following drawing numbers stated on the Council's Decision Notice were incorrect: 296300-01 (unrevised); 296300-05 (unrevised); 296300-06 (unrevised) and 296300-07 (unrevised). The appellant has stated the Drawing Numbers submitted with the original application were as follows: 296300-01B; 296300-05A; 296300-06A and 296300-07A. During the determination of the planning application, the appellant submitted additional plans and documentation: 296300-02B Existing Ground Floor Site Plan; 296300-05B Proposed Ground Floor Plan; AQ107965r1 - Windsor Court, Hemel Hempstead - Daylight, Sunlight and Overshadowing Assessment and AQ107965r2 - Windsor Court, Hemel Hempstead - Daylight, Sunlight and Overshadowing Assessment. I have determined the appeal on this basis.

Main Issues

4. The main issues are:
 - The effect of the proposed development on the character and appearance of the site and the surrounding area;

- The effect of the proposed development on the living conditions of the existing occupiers, with particular reference to light, outlook, noise and disturbance; and
- The provision of affordable housing.

Reasons

Character and appearance

5. The appeal site is a 3 storey residential building, converted from a former office block. The building is horseshoe shaped with a central courtyard, where the access doors and car parking spaces are located. The building is finished in buff brick to the two lower floors and render to the top, with red brick to the gables. There are 3 other buildings nearby which have a similar form and design. Aside from the nearby residential blocks, the immediate area is predominately retail and commercial premises.
6. The proposal would add 2 additional storeys on the existing building. It would use the existing stairwells and lift shafts to extend upwards to form the access for the dwellings. The proposal would be of a similar design and style to the host building. The buildings near the site, whilst sharing some similarities in design, are not exactly the same. Therefore, a change to the host building would not disrupt the overall character and appearance of the estate.
7. The appellant has highlighted that the adjacent building, Clifton Court, has planning permission¹ to increase the size and scale of the building, and that the proposal would be in proportion to these changes. I observed that construction had started on the adjacent premises. Nevertheless, I have not been provided with full details of the permissions, therefore, I am not able to determine if they are directly comparable or what may have led to their approval.
8. The proposal would add 2 storeys on to the host building, making it 5 storeys in total. This would not fully accord with the guidance contained within the Dacorum Urban Design Assessments Update Paper (UDA) (2011), which suggests that new buildings could be 3-4 four storey terrace flat buildings. However, due to the surrounding context, the design traits of the building and the proposed use of materials similar to the host building, an increase in height of one storey over the suggested guidance would not appear at odds with the character of the area. I note that the host building is already readily visible from Two Waters Road. Nevertheless, it sits within the backdrop of a retail outlet and commercial premises, along with their associated car parking and storage areas. Therefore, it would not appear incongruous or unsightly in this regard.
9. The courtyard area is predominately used for car parking, therefore, 6 additional spaces would not significantly alter the existing presence of vehicles in the area. To increase the provision of parking the proposal would remove some of the existing landscaped areas adjacent to the courtyard. The areas of greenery are relatively small in size and are not defining features of the character and appearance of the area. Therefore, the loss would not be harmful in the overall context of the area.

¹ Reference 4/02639/16/Full and 4/03122/17/Full

10. Existing refuse arrangements relate to refuse bins stored in the south-west corner of the site. The appellant states that it was intended that this arrangement would continue. However, given the increase in future occupants it is likely that further storage or more frequent collections would be required. The increase in further refuse storage would not appear intrusive or incongruous as it would be residential paraphernalia expected with such apartment blocks. In any case, were I minded to allow the appeal, this could be resolved by an appropriately worded condition.
11. I find that the proposal would not harm the character and appearance of the site and surrounding area. Whilst the proposal would conflict with the guidance set out in the UDA, it would accord with the principles of policies CS10, CS11 and CS12 of the adopted Dacorum Core Strategy (DBCS) (2013). These policies, amongst other things, require development to integrate with the streetscape character and respect adjoining properties.

Living conditions

12. The appellant has submitted a Daylight, Sunlight and Overshadowing Assessment² (DSOA) to accompany the proposal. In terms of daylight, the report states that 24 windows on all floors would record failures in Windsor Court in terms of the Vertical Sky Component (VSC). With regard to sunlight, the report states that 4 ground floor windows on the southern façade of Windsor Court, and 3 windows on the northern façade of the adjacent building (R3) would fail the Annual Probable Sunlight Hours (APSH).
13. The mitigation proposed includes a reliance on the reflectance of light from the render finish to the building, which would require ongoing maintenance to keep the render clean. Whilst the proposed render would make the building appear brighter and the associated maintenance of the render could be conditioned, the statement from REC Ltd states that the render itself would not change the VSC. Therefore, the mitigation proposed in the DSOA would not sufficiently overcome the harm to the living conditions of the occupiers of Windsor Court at the 24 sensitive locations, as identified in the DSOA.
14. In terms of outlook, due to the increase in height and massing, those on the lower floors would have increased views of the built form of the building and a reduction in the views towards the sky. The additional 2 storeys would appear overbearing for the existing occupants when looking out through the windows of the apartments, which would have a harmful effect.
15. In terms of noise and disturbance, the building already has parking in the courtyard area in close proximity to ground floor windows. The introduction of a further 6 spaces would not significantly increase the noise and disturbance already experienced by the existing occupiers. Due to the design of the existing building some level of background noise associated with vehicles would be expected. Therefore, I do not consider the proposal would be materially harmful in this regard.
16. Consequently, while I have found that the proposal would not be harmful in terms of noise and disturbance, it would nevertheless harmfully change the living conditions of the occupiers of Windsor Court in respect of light, sunlight and outlook. Therefore, the proposal would be contrary to Policy CS12 of the

² Daylight, sunlight and overshadowing assessment Windsor Court, Hemel Hempstead – REC (2019)

DBCS. This Policy, amongst other things, requires development to avoid visual intrusion, loss of sunlight and daylight to surrounding properties.

Affordable housing

17. In the Council's officer report, the Strategic Housing team highlighted that the proposal would need to provide affordable housing. The Council states that a Section 106 agreement (S106) would be required to secure the provision of 35% on-site affordable housing provision to accord with Policy CS19 of the DBCS and the guidance within the Affordable Housing Supplementary Planning Document (AHSPD) (2019). For this proposal the Council states that the number of units required would be 6 at a mix of 75% affordable rented and 25% shared ownership.
18. During the course of the appeal the appellant submitted a Financial Viability Appraisal³ stating that if 5 units were provided the proposal would be unviable. It also states that the scheme is unviable even with no affordable housing provision. Therefore, the proposal would not be able to provide the required contribution. However, if I were minded to allow the proposal, a condition to review the affordable housing in a post permission viability reassessment, if the development was not implemented within 2 years could be attached.
19. I find that the proposal would not be viable were it to meet the required provision of affordable housing. Therefore, whilst it would not accord with the requirements within Policy CS19 of the DBCS and the guidance within the AHSPD, it would still meet the aspirations to deliver affordable housing, where it would be viable to do so. This policy and guidance require new development to provide affordable housing or a financial contribution in lieu of on-site provision.

Other Matters

20. I note there have been a number of concerns raised by interested parties including, those relating to building regulations, congestion, privacy, property values, disruptions cause by construction and developer contributions. However, not all of these are planning matters, and in any case, I have already identified harm above such that I do not need to consider these further.
21. I acknowledge that the appellant states that the site is in a sustainable urban location where the principle of development should be considered acceptable. However, this does not outweigh the harm that I have identified above.

Conclusion

22. For the reasons set out above, I conclude that the appeal is dismissed.

D Peppitt

INSPECTOR

³ Financial Viability Appraisal for Windsor Court, Corner Hall Hemel Hempstead HP3 9AW - DJC housing consultants ltd - March 2020