



Appeal Decision

Site visit made on 11 August 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th August 2020

Appeal Ref: APP/Y1945/W/20/3250553

Rear of 129-131 Queens Road, Watford, Hertfordshire WD17 2QP

- 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 Tony Jason against the decision of Watford Borough Council.
 - The application Ref 19/01460/FUL, dated 18 December 2019, was refused by notice dated 17 February 2020.
 - The development proposed is removal of existing garage/store building and construction of new studio living unit.
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Decision

1. The appeal is allowed and planning permission is granted for removal of existing garage/store building and construction of new studio living unit at Rear of 129-131 Queens Road, Watford, Hertfordshire WD17 2QP in accordance with the terms of the application, Ref 19/01460/FUL, dated 18 December 2019, subject to the conditions set out in the attached schedule.

Procedural Matters

2. I have taken the postcode for the appeal site from the application form. I note that the postcode is stated differently on the Council's decision notice, but I am satisfied that it relates to the same site.
3. The appellant indicates that an amended plan was submitted prior to the Council's determination of the application. I have been provided with a copy of an email dated 21 January 2020 to the Council which refers to an attached amended plan, and a plan marked as 'Amended 21/1/20' showing Existing Plans & Elevations and Proposed Plans & Elevations. This shows changes to the proposed building, including a hipped roof instead of the originally proposed flat roof and changes to fenestration. However, the Council determined the application on the basis of the originally submitted plans, and its officer report made no mention of the amended plan or revised design of the building.
4. In accordance with the Wheatcroft Principles¹, I must consider whether acceptance of the amended plan at appeal stage would prejudice the interests of any parties. There is no evidence that the amended proposals were subject to consultation, or that interested parties would be aware of the alterations which affect the scale of the building and increase its height. I consider that potentially interested parties could be disadvantaged if I were to have regard to this larger and materially different scheme. I have therefore determined the appeal on the basis of the drawings submitted with the original planning application.

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

Main Issues

5. The main issues are:

- i) the effect of the proposal on the character and appearance of the Estcourt Conservation Area;
- ii) whether or not living conditions for occupiers of the proposed dwelling would be acceptable with particular regard to the provision of private outdoor amenity space; and
- iii) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to outlook, privacy and the provision of private outdoor amenity space.

Reasons

Character and Appearance

- 6. The appeal site is within the Estcourt Conservation Area (CA). In accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
- 7. The Estcourt Conservation Area Character Appraisal 2015 (ECACA) notes that most buildings within the CA were constructed during a 20-30 year period in the latter half of the nineteenth century. As a result, there is a high degree of consistency in the street forms and the heights, materials and elevational detailing of buildings which predominantly comprise two-storey terraces with pitched roofs. A number of yards accessed via gateways or archways and small workshops to the rear of buildings add some variety and a mixed-use character to the CA, but the terraced runs and close relationship between buildings results in a tight urban grain. Together with the high degree of consistency in the form and appearance of development, this adds a distinctive character and appearance, from which much of the significance of the CA derives.
- 8. The appeal site is within 'Oak Yard' which is accessed through an archway beneath and to the side of 131 Queens Road. Much of the yard comprises hardstanding which is used for parking, although there is a part single, part two-storey building at the rear of the yard which appears to be in commercial use. The site includes a single-storey detached building described as a garage/store, together with areas of hardstanding to its front and side. It is proposed to replaced these with a detached dwelling.
- 9. The CA includes varied buildings set to the rear of frontage development within yards, including some dwellings such as to the rear of 177 Queens Road near to the site. The position of the dwelling to the rear of 129 and 131 Queens Road would not therefore be incongruous or inappropriate.
- 10. The dwelling would be set close to its boundaries and the rear of the buildings at 129 and 131 Queens Road. However, a tight urban grain is also part of the character of the CA. I saw that the boundaries to the rear of some other buildings on this part of Queens Road including those backing on to Oak Yard are similarly tightly drawn, and in this context I do not find that the relationship of the building to its boundaries or neighbouring development would be discordant or uncharacteristically cramped. Although it would have a larger footprint than the existing building on the site, additional enclosure of

the yard and the visual impact of the development would both be limited by its single-storey height and the set-back of the wider part of the building.

11. I accept that the single-storey scale and flat roof design of the proposed dwelling would not reflect the two-storey terraced forms with pitched roofs which are most typical within the CA. However, the neighbouring commercial building within the yard also has a flat roof, and is of contrasting scale to the buildings on this part of Queens Road which are three-storey at the rear, and buildings of differing forms are also apparent within other yards in the CA. Given these factors I do not consider that the scale or form of the dwelling would be jarring or out of place against the surrounding development so as to form an incongruous or inappropriate feature. Moreover, views of the dwelling from the street scene of Queens Road would be very restricted, if not impossible, because of its position behind Nos 129 and 131, so that its effect on the appearance of the CA would be limited.
12. I agree with the Council's Urban Design and Conservation Manager that the proportions of the windows and doors shown to the front of the building would not reflect the white wood or painted white windows with vertical emphasis which are typical within the CA. Nevertheless, because it would be a minor change which would not materially alter the development proposed, this can be addressed by a suitably worded condition to require revised window and door details. Further details of the proposed external materials can similarly be secured by condition to ensure that they would be sympathetic to those commonly found within the CA.
13. Subject to these conditions, I find that the development would assimilate well with the surrounding area, and that the character and the appearance of the CA would be preserved. Accordingly, I find no conflict with Policies UD1 or UD2 of Watford's Local Plan Part 1 – Core Strategy 2013 (CS) which require, amongst other things, that development respects or enhances local character and that the historic environment is conserved and where appropriate enhanced. Nor do I find conflict with guidance within the Residential Design Guide 2016 (RDG) which seeks similar outcomes, and I am also satisfied that the significance of the CA would be preserved in accordance with the requirements of the National Planning Policy Framework (the Framework) and the objectives of the ECACA.

Living Conditions – Future Occupiers

14. I have not been directed to an adopted development plan policy requirement regarding the internal height of dwellings, but given the height of the building, I see no reason it would result in a poor quality internal environment for occupiers in any case.
15. However, the proposal would conflict with guidance within the Residential Design Guide 2016 (RDG) advising that new residential development will be expected to provide private outdoor amenity space, and indicating a minimum garden area of 50sqm for a one or two-bedroom dwelling. While there would be a small area to the front of the building and outdoor space for the storage of bins and cycles, future occupiers would not benefit from private outdoor space on the site.
16. Be that as it may, the small size of the dwelling means that it is unlikely to be occupied by households with children. The site is also within comfortable walking distance of public open recreation areas along Radlett Road and

Shaftesbury Road. Although these areas would not provide a substitute for private amenity space for the exclusive enjoyment of occupiers of the dwelling, they would enable convenient access to outdoor space.

17. Given these factors, I find that the failure to provide suitable private outdoor amenity space as sought by the RDG would cause only modest harm to the living conditions of future occupiers of the dwelling. Nevertheless, this would result in some conflict with Policy UD1 of the CS which, amongst other things, seeks to ensure high quality design.

Living Conditions – Neighbouring Occupiers

18. I saw at my visit that the area of hardstanding to the side of the existing building on the site is separated from neighbouring dwellings by boundary fencing, and was taken up mostly by storage including of some building materials as well as household items. It did not therefore appear to offer usable outdoor space for nearby residents.
19. As with the proposed dwelling, neighbouring occupiers would benefit from nearby access to large recreation grounds, but in contrast to the appeal development, I saw that there is also some outdoor space to the rear of 129 Queens Road and to the side of the ground floor flat at 131A Queens Road which adjoin the site. While I accept that these may not accord with guidance within the RDG, the Council has not indicated which dwelling or dwellings the space on the appeal site is alleged to serve, nor provided any substantive evidence of how the development would lead to substandard living conditions for neighbouring occupiers. In these circumstances, I am not persuaded that the reduction in space on the site would cause unacceptable harm.
20. No windows are proposed to the side of the building and so there would be no direct overlooking to windows at the rear of Nos 129 or 131A. The window to the front of the wider part of the building serving the living space would be fairly close to the nearest windows of these neighbours, and would be within the 'privacy arc' which the RDG outlines as a rule-of-thumb to assess the effect of development on the privacy of neighbours. Nevertheless, it would be orientated at 90° to the neighbouring windows which would accord with the RDG guidance that habitable room windows will be accepted within the privacy arc if a proposal is at right angles or at an angle greater than 90°. Given this relationship, I see no reason that the proposal would lead to overlooking or a harmful loss of privacy for these neighbouring occupiers. The separation and intervening boundary treatment would also prevent harmful overlooking towards windows to the side of Woolrych Court which the dwelling would face.
21. The dwelling would be positioned close to single-storey projections including windows to the rear of 129 Queens Road and the ground-floor flat at 131A Queens Road. The window to the rear of No 129 currently faces onto the fenced area within the appeal site with the existing garage beyond. The main part of the proposed building would be set a similar distance from this window as the existing building, although the wider rear part of the dwelling would extend closer to the boundary. However, while I was unable to establish what room the window serves, it is obscure-glazed and therefore outlook would not be harmfully diminished by the development.
22. The front part of the building would extend forward of the existing garage on the site, and views from the clear-glazed window to the rear of No 131A would

therefore be towards the side of the building which would be set fairly close. However, space at the rear of No 131A is used for parking, and the proximity of parked vehicles would restrict outlook from this window to a degree already. Moreover, there would remain some open views from this window across the front of the development. Taken together with the fairly modest height of the proposed building, I am therefore satisfied that the development would not be oppressive or result in a detrimental loss of outlook to this window so as to cause unacceptable harm to the living conditions of occupiers.

23. Outlook from other windows to the rear of Nos 129 and 131 which are set further from the boundary of the appeal site, and from other neighbouring buildings would not be harmed given the scale of the dwelling and the separation distances provided.
24. For these reasons, I conclude on this main issue that the development would not result in unacceptable harm to the living conditions of neighbouring occupiers and in this regard, I find no conflict with Policy UD1 of the CS.

Other Matters

25. The site is located within the Central/West Watford Controlled Parking Zone. At appeal stage, the Council advised that a planning obligation pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) removing the entitlement of future occupiers to a permit to park here is necessary in accordance with saved Policies T24 and T26 of the Watford District Plan 2000. In the absence of an obligation, the Council suggests that the decision notice should have included an additional reason for refusal referring to a failure to make appropriate provision to restrict on-street parking in the surrounding area which is likely to exacerbate existing on-street parking congestion.
26. However, the Council's officer report on the application made no mention of this as a concern at all. Moreover, I am obliged to consider this matter in the context of statutory tests at Regulation 122 of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL regulations) which are reflected at paragraph 56 of the Framework. Notwithstanding the aims of development plan policy, I have not been provided with evidence to support the assertion that on-street parking congestion would be exacerbated by the proposal, or to justify that an obligation is necessary having regard to the statutory tests. Consequently, I am unable to conclude that the suggested obligation would be necessary to make the development acceptable in planning terms so as to comply with Regulation 122 of the CIL Regulations. In these circumstances, the absence of a planning obligation does not weigh against the development.
27. I have noted representations which refer to the removal of a tree at the site prior to the submission of the planning application to the Council. However, the removal of the tree is not part of the development which is before me to determine, and the Council's evidence suggests that it was not protected by a Tree Preservation Order and does not raise any concern over its removal.

Planning Balance

28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise.

29. The lack of private outdoor amenity space for occupiers of the dwelling would be contrary to guidance within the RDG, and would result in some conflict with Policy UD1 of the CS. Insofar as it seeks to achieve well-designed places, this policy is broadly consistent with the expectations of the Framework which includes a requirement that development provides a good standard of amenity for existing and future users. The weight that I afford to the conflict with this policy is therefore reasonably significant. However, the nature of the dwelling as a studio, and access to public open spaces nearby mean that harm to living conditions of future occupiers would in this case be fairly limited. I have also found no harm to the character or appearance of the CA or the living conditions of neighbouring occupiers.
30. The Frameworks seeks to significantly boost the supply of housing to meet needs, and the Council has not disputed the appellant's statement that the results of the 2019 Housing Delivery Test (HDT) show delivery of housing in the borough was 70% of the housing requirement over the previous 3 years. The proposal would provide an additional dwelling which would contribute positively to the housing supply, particularly in light of the past undersupply indicated by the HDT results. It would also make effective use of the site which is located close to local facilities and amenities within the town centre and transport links, reducing reliance on private vehicles, representing an environmental benefit. These are facets which are strongly supported by the Framework. While the scale of the development means that the contribution would be fairly small, I give these matters significant weight which I find outweighs the conflict of the proposal with Policy UD1 of the CS in this instance. The modest effect of the provision for outdoor space on the living conditions of occupiers of the dwelling would also be outweighed.
31. Accordingly, there are material considerations which indicate that the appeal should be allowed, notwithstanding the conflict with the development plan.

Conditions and Conclusion

32. The Council has not suggested conditions in the event that the appeal is allowed. I have imposed the standard time limit condition, along with a condition specifying the approved plans for the avoidance of doubt and in the interest of certainty. Given my findings on the main issues, conditions are also necessary to require details of the external materials and revised details of windows and doors to the building in order to preserve the character and appearance of the area. Noting the fairly constrained access to the site through an archway, I consider that a condition requiring details of how construction will be managed is also necessary in the interests of maintaining access to Oak Yard and the living conditions of neighbouring occupiers. This is a pre-commencement condition as details need to be agreed before any works take place to ensure that they are satisfactory, and the appellant has agreed to this.
33. Subject to these conditions, and for the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule of 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: Site Location Plan, and 'Existing Plans & Elevations and Proposed Plans & Elevations' dated December 2019.
- 3) Notwithstanding condition 2, no development above ground level shall take place until revised details of the design and materials of the windows and entrance door to the development hereby permitted have been submitted to an approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) No development above ground level shall take place until details of all materials, colours and finishes to be used on all external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - i) the parking of vehicles of site operatives and visitors;
 - ii) delivery, removal, loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) measures to control the emission of dust and dirt during construction; and
 - v) delivery, demolition and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.