
Appeal Decision

Site visit made on 4 August 2020

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Appeal Ref: APP/D1835/W/20/3252499

1 St Johns, Worcester WR2 5AE

- 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 Adam Teper of Fair Construction Limited against the decision of Worcester City Council.
 - The application Ref 19/01012/CU, dated 23 December 2019, was refused by notice dated 5 April 2020.
 - The development proposed is conversion of the vacant storage and utility areas to the rear to provide 2 one bedroom apartments.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the living conditions of future occupiers in relation to outlook, internal space and private outdoor space.

Reasons

3. The site comprises a vacant storage area located within the rear of the property at 1 St Johns. The frontage of the property is adjacent to the high street in the north, whilst the rear of the property is adjacent to residential development in the south. The rear of the property is at a lower level than the adjacent residential development and is accessed below ground level using stairwells or ramps at each side. Development directly abuts each side of the property, to the east there is a high boundary wall (with buildings beyond) and to the west there are buildings of varying height. The change in levels in conjunction with the proximity of large structures at each side gives the rear of the property an enclosed and somewhat subterranean character.
4. The proposal seeks to convert the vacant storage area into residential accommodation comprising 2 one bedroom ground floor apartments, introducing windows and doors to the sides. Given the prevailing enclosed and somewhat subterranean character of the environment, it remains to be seen how the proposal would avoid subjecting future occupants to harmful overbearing effects. The proximity of built form and associated level differences would all but eliminate any meaningful outlook from the windows serving habitable rooms, harming living conditions. Going further, Unit 1 in particular would only appear to have windows in its western flank and the associated outlook would be oppressively diminished. Unit 2 would have dual aspect windows by comparison but would still fail to overcome the proximity of neighbouring structures or level changes to provide sufficient levels of outlook.

5. Unit 2 would be provided with a small private outdoor space, but it is likely that occupants would only spend limited time outdoors compared to indoors and especially in the winter months or during changeable weather conditions. Consequently, the benefits of providing a small private outdoor space would not be significant enough to mitigate the harmful overbearing effects that occupants would experience most of the time when living indoors. Unit 1 would not be provided with a private outdoor space at all, but the appellant contends that other successful forms of development have been delivered in the area under similar circumstances. However, in a similar context to Unit 2, even if Unit 1 was provided with a small private outdoor space, this would not mitigate the identified harms.
6. The appellant contends that existing residential accommodation at Flat 15E approved by the Council faces the same passageway as one of the units within the proposal, with a similar outlook. However, this in and of itself does not make the proposal acceptable. I do not have precise details of the original scheme for Flat 15E in front of me in order to assess its merits in comparison with the proposal in this case. Even if the development and circumstances are similar, it has not been demonstrated that it is an example that should be followed or that is desirable. In any event, on the evidence submitted pursuant to the proposal in this case, the effects on outlook would be undesirable.
7. The Council has raised concerns about whether the apartments are sufficiently dimensioned to achieve internal space standards prescribed by the Technical housing standards – nationally described space standard 2015. However, any deficiency does not appear to be precisely quantified or referenced in evidence, neither is it related back to specific policy requirements within the South Worcestershire Development Plan 2016 (SWDP). Even if it were, the Council accepts it is only a marginal shortfall, and on this basis, it is unlikely to be so substantial that it would render the internal space arrangements unacceptable.
8. Overall, even though the space standards are only marginally deficient and not harmful in and of themselves, the proposal would still subject future occupiers to an enclosed outlook, which independent of the provision of private outdoor space, would generate harmful overbearing effects on their living conditions. This would conflict with Policy SWDP21 of the SWDP, which among other things seeks to ensure development provides adequate levels of outlook and should not be unduly overbearing.

Other Matters

9. The appellant has responded to the availability of light, which was not referenced in the Council's reasons for refusal but was mentioned within the officer report. Loss of light is not necessarily the same as loss of outlook. This matter is therefore considered to be separate from the main issues. It would not have had an impact on how outlook and overbearing effects have been assessed under this appeal, which were found to be unacceptable in isolation.
10. How the Council originally administered the application, and any correspondence between the then applicant and the Council therein (including case officer intentions to approve or refuse), nor the appellant's contentions that they have delivered high quality accommodation in the past, are necessarily matters for this appeal, which has been determined in accordance with the evidence presented, the development plan and any other material considerations.

11. It is acknowledged that the proposal would make use of a vacant building and heritage asset within a central location which is accessible via sustainable transport modes. It's sub division may also attract further investment and the increased footfall may improve natural surveillance and usage of the district centre, albeit to a limited extent given the existing natural surveillance provided by existing residential accommodation to the rear. Nonetheless, these matters are not considered sufficient to determine that future occupiers should be subjected to substandard living conditions and therefore would not otherwise make the proposal acceptable.
12. The appellant contends that the proposal would contribute to the area's housing land supply and that this should be taken as a benefit weighing in favour of the appeal. However, there is no evidence of a shortfall in housing land supply, and even if there was a substantial shortfall, two units would make a limited contribution and therefore be of only limited benefit. This would not be sufficient to weigh in favour of the proposal or against the identified harms.
13. I note the appellant's contention that no objections to the scheme were raised by any consultees or interested parties. In any event, the absence of an objection does not in itself mean the proposal is acceptable. The appeal has been determined based on the development plan, material considerations and the evidence presented.

Conclusion

14. For the reasons given, the appeal is dismissed.

Liam Page

INSPECTOR