



Appeal Decision

Site visit made on 1 December 2020

by D Hartley BA (Hons) MTP MBA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2020

Appeal Ref: APP/X1925/W/20/3248491

The Exchange, Queen Street, Hitchin SG4 9TY

- 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 C Sarno against the decision of North Hertfordshire District Council.
 - The application Ref 19/02365/FP, dated 26 September 2019, was refused by notice dated 10 January 2020.
 - The development proposed is to create a two storey roof extension to create 4 No studio/1 bed and 6 No 2 bed apartments (third and fourth floors) with 10 allocated car parking spaces within the existing car park area, cycle parking, bin storage facilities including a communal roof garden.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As part of the appeal, the appellant has submitted an amended plan which relocates bin storage areas. This plan has not been the subject of public consultation and the Council has not taken it into account as part of its response to the appeal. I have determined this appeal in accordance with only the plans that formed the basis of the Council's reason for refusal. For the avoidance of doubt, I have not therefore determined this appeal against the amended plan in appendix five of the appellant's appeal statement as to do so would be prejudicial from public consultation point of view.

Policy Background and Main Issues

3. The Council has made reference to policies within the emerging North Hertfordshire Local Plan 2011-2031 (ELP) in its refusal notice. The evidence indicates that this is not yet adopted and therefore I afford limited weight to the relevant policies in decision making terms and as material planning considerations.
4. There is no dispute between the parties that the local planning authority cannot demonstrate a deliverable five year supply of housing sites. The appellant has referred to the Council's Housing Land Supply Statement, dated January 2020, and claims that the housing land supply is currently at 1.3 years. This has not been disputed by the Council. Consequently, paragraph 11d of the National Planning Policy Framework (the Framework) would be engaged, unless my assessment of the proposal demonstrated that there was a clear reason for

refusing development in respect of the effect of the development on designated heritage assets and/or in respect of flood risk.

5. In the context of the above, the main issues are (i) the effect of the proposal on the character and appearance of the area including the setting of the nearby Grade I listed St Mary's Church, Grade II* listed Biggin Almshouses and the adjacent Hitchin Conservation Area; (ii) whether there would be adequate surface water drainage; (iii) whether satisfactory and safe bin storage areas would be provided; (iv) the effect of the development on the occupiers of neighbouring flats in respect of privacy and disturbance and (v) whether overall the proposal would deliver sustainable development.

Reasons

Site and Proposal

6. The appeal site falls within Hitchin Town Centre and comprises a two and three storey 1950s telephone exchange building on the corner Queen Street and Hollow Lane. The ground floor is used as a gym/shop and offices and the upper floors are in use as flats. The site adjoins an existing five storey building used as a BT exchange/offices and includes a car park to the upper section of the site adjacent to Lyle's Row.
7. Opposite the site on Queen Street is a public car park and behind that is the architecturally impressive Grade I listed St Mary's Church. Further down Queen Street, and at an angle to the appeal site, is the Grade II* Biggin Almshouses which is built in four ranges of 2 storeys with steep tiled roofs with some louvred dormers and positioned within a small open courtyard. The site is also in close proximity, albeit outside, the Hitchin Conservation Area (CA) with its boundary on Queen Street and then on Hollow Lane the latter of which is adjacent to the open land which leads to the elevated Windmill Hill Path.
8. It is proposed to form ten apartments arising out of the erection of a single/two storey extension, clad mainly in dark grey aluminium zinc, and including a roof garden on the roof of the three storey larger wing of the building fronting Hollow Lane. The extension would have a flat roof with a mansard slope on its Hollow Lane facing elevation and would include dormers on both levels. There would be car parking, cycle parking and bin storage facilities for both the existing and proposed occupiers of the flats.

Character, Appearance and Heritage

9. The appeal site is located within Hitchin Town Centre. The Queen Street elevation/façade is comparable in height to the other commercial and residential buildings along this road. I acknowledge that the building steps up in height behind the Queen Street elevation, but this is set back into Hollow Lane. Given the aforementioned set back, this higher development is not very noticeable from certain public vantage points including from Biggin Lane which leads to Hitchin Market.
10. When viewed from the Grade I listed St Mary's Church (i.e. a Medieval parish church dating from the 12th century) and car park opposite the higher development behind the Queen Street elevation can be seen. This development is not, however, as apparent when viewed from the Grade II* The Biggin Almshouses (dating from the early 17th century) given its location. The higher development, including that relating to the BT building further up Hollow

Lane, is stepped some distance back from Queen Street and hence this helps to maintain a visual regularity to the height of the frontage facades when viewed by passers-by, from within the CA and from the aforementioned listed buildings. The relative consistency of the scale of buildings fronting Queen Street provides a pleasing soft edge and uniformity of scale to the overall significance of the setting of the listed buildings and the CA.

11. In Hollow Lane, the existing building appears slightly more dominant and imposing when compared to the residential buildings/flats opposite. This is partly because the appeal building is also seen in the context of the adjacent BT building which is of significant height and bulk. The imposing BT building is particularly apparent when viewed from the junction of Hollows Lane with Mount Garrison and St Andrews Place. However, the existing dominance of the appeal building is to a large extent softened as a result of the welcome relief afforded by its less imposing two storey façade opposite Balliol Chambers. In this context, and whilst the development does step up in height behind this façade, the appeal building does not have a materially dominating impact in the street-scene when considered against the scale of the Balliol Chambers building.
12. As part of my site visit, I was able to consider the effect of the single and two storey roof extension on the character and appearance of the area. Whilst this development would be recessed from the two storey facades on Queen Street and Hollows Lane, owing to its overall bulk and height it would have a noticeably dominating and enclosing impact when viewed from these roads. The development would be particularly noticeable from Biggin Lane, including the Grade II* Biggin Armshouses, as well as from the Grade I listed St Mary's Church. Due to its position and scale, it would appear top-heavy, dominant and enclosing in the context of the setting of these listed buildings and in respect of views out of the CA.
13. The above harm would be such that to the on-looker the building would no longer assimilate well with the scale and proportions of the vast majority of the buildings that surround it. Indeed, the overall effect on both Queen Street and Hollow Lane would be one where the appeal development visually competed with the two storey façades. From St Mary's Church, the car park and Biggin Armshouses the existing impression of a general and pleasing uniformity of scale of buildings immediately fronting Queen Street would be significantly diminished. For this reason, the significance of the setting of the listed buildings would be harmed.
14. On my site visit, I was able to appreciate the existing building from Windmill Hill Path which is within the CA and offers impressive and elevated views towards Hitchin Town Centre and to St Mary's Church. From this important viewpoint, the appeal building is very apparent. Given its step down in height relative to the very tall adjacent BT building, it reflects the general uniformity of scale to the buildings within the part of the CA that surrounds St Mary's Church and which line Queen Street which is immediately adjacent to the CA. Owing to the position, bulk and scale of the proposed development, I therefore consider that harm would be caused to this view and hence to the significance of the part of the CA in and around Windmill Hill Path.
15. I do acknowledge the reasons why the appellant has opted, in the main, to use a dark grey aluminium zinc walling system for the roof extension. In some

cases, this can be an effective means of blending 'new with old'. However, the use of this material/colour against the muted tone of the predominantly brick appeal building would have the effect of drawing more attention to this harmful development when seen on the skyline and from the aforementioned important viewpoints. In other words, it would make the harmful development even more conspicuous when seen from public vantage points.

16. I therefore find that significant harm would be caused to the character and appearance of the area. Furthermore, and for the reasons outlined, the proposal would not preserve the settings of St Mary's Church and Biggin Almshouses, or safeguard important views into and out of the CA or the setting of the CA. I afford great weight to the conservation of these designated heritage assets. Whilst the harm to the significance of the designated heritage assets would be less than substantial, the identified public benefits in the other considerations part of this decision below would not outweigh such harm.
17. I conclude that the proposed development would not accord with the design and conservation requirements of Chapters 12 and 16 of the National Planning Policy Framework (the Framework); saved Policy 57 of adopted North Hertfordshire District Local Plan (With Alterations) 1996 (LP) and Policies SP1, SP9 and D1 of the ELP. I do consider that Policy 57 of the LP is relevant to the determination of this appeal as it relates to "*all proposals for residential development*".
18. In reaching the above conclusion, I have taken into account the fact that the proposal would make efficient use of a brownfield site. I have also taken into account the appellant's reference to paragraph 118 e) of the Framework which supports opportunities to use the airspace above existing residential and commercial premises. However, the Framework is clear that these matters cannot be considered in isolation from the need to achieve good design. In this case, the development would not amount to good design and, furthermore, harm would be caused to designated heritage assets.

Surface Water Drainage

19. As part of the appeal, the appellant has submitted an updated Flood Risk Assessment and Surface Water Drainage Assessment in an attempt to address concerns raised by the Lead Local Flood Authority (LLFA). I acknowledge that the proposed development would be at roof level and in that sense the impermeable area of the site would not be increased. Furthermore, the appellant says that a sedum/green roof would be provided for the bike store roof and that this would provide some relative betterment from a surface water point of view.
20. I have no reason to doubt the comments made by the LLFA which states that the Environment Agency has updated their Areas Susceptible to Surface Water Flood Risk flood maps. They indicate an area of "*high risk*" surface water flooding at each access point into the development from Queen Street and Hollow Lane and into the existing car park at the rear.
21. I am not persuaded that the appellant's Assessments reasonably take into account the above and it is of note that it is proposed to increase additional residents on the site. I am not therefore certain that the proposed occupants of the development would be safe for the lifetime of the development or indeed that the residents would have a safe access and egress route should the

drainage system be inadequate. In considering this matter, the Assessments do not take the impacts of climate change into account and then consider the capacity of the existing drainage system. I acknowledge that some CCTV drains surveys have been carried out by the appellant, but this work was incomplete.

22. Given the above, and hence the uncertainty about whether the existing drainage system would be adequate taking into account the future impacts of climate change, or indeed whether it would be necessary to include surface water attenuation measures, I am unable to conclude that the proposal would be acceptable from a drainage point of view. This is a matter which goes to the heart of whether in principle the proposal is acceptable or not. Consequently, I do not consider that it would be appropriate to impose a planning condition to deal with this matter. I therefore conclude that the proposal would not accord with the safety and drainage requirements of paragraph 163 of the Framework.

Bin Storage

23. I have determined this appeal against the plans that formed the basis of the Council's refusal notice. In this respect, the proposed location of the external bin storage area at the Hollow Lane entrance would put residents in danger when using the bins/footway owing to the resultant narrow and confined space and hence conflicts with passing vehicles.
24. In addition, the other proposed bin storage area at the Queen Street pedestrian entrance would mean that crews or residents had to walk such bins around a bicycle rack, and via a narrow pathway adjacent an external staircase, in order to get them to the street. This would have the potential to lead to unacceptable conflicts. Furthermore, and given the highway railings, it would mean that refuse vehicles had to pull up at a pedestrian crossing putting pedestrians in danger given reduced visibility for them and, during bin collection time, some backing up of traffic on a busy main road.
25. Whilst it may be possible to opt for different and perhaps better solutions in terms of the storage of bins, this in turn could have implications in terms of other conflicts or possibly the overall number of available car parking spaces. I do not therefore consider that it would be appropriate to control this matter by means of the imposition of a planning condition.
26. For the above reasons, I conclude that the proposed bin storage areas would not be satisfactory and that they would lead to conflicts between pedestrians and vehicles thereby causing unacceptable harm to highway safety. To this extent the development would not accord with paragraph 109 of the Framework or the high quality development and good design requirements of policies SP1 and SP9 of the ELP.

Living Conditions

27. The Council has raised concern about the effect of the development on the living conditions of the occupiers of existing flats from a disturbance point of view. I recognise that the proposal would mean that more people lived on the site and hence that there would be more comings and goings, including from visitors. I also accept that there is potential for some low level noise and disturbance from users of the roof terrace. Nevertheless, this is an urban environment and the site is already occupied by a number of flats. I do not

- consider that there is any evidence before me to indicate that there would be any significant level of disturbance arising out of the development proposal.
28. The Council contends that there would be overlooking from the mansard roof dormers towards the existing roof terraces below. However, owing to the set back of the mansard roof/dormers and the roof garden (including its railings) from the existing elevation, coupled with the provision of Juliette balconies to the double door openings at third and fourth levels, I do not consider that any material overlooking would be caused to the occupiers of the flats below when using outside amenity space.
29. To the rear, it is proposed to include a cantilevered projection including the use of balconies. This would ensure that from most of the windows there would be no overlooking of the outside amenity space below which is at an oblique angle. Subject to controlling the height and finish of the screens to the balconies, I am satisfied that there would not be any significant overlooking of existing outside space below.
30. I have also taken into account the position of the proposed roof garden including its railings and its relationship with existing roof gardens which face both Queen Street and Hollow Lane. Taking into account the set back position of the roof garden, coupled with the careful control of the height of the railings by condition, I do not consider that this development would cause material harm to existing living conditions from a privacy point of view.
31. I acknowledge that in the far corner of the proposed roof garden there is potential for users of this space to overlook existing roof gardens on the lower section of existing building facing Queen Street. In the main, the existing flat roof over the staircase and lift riser serving the third floor below would provide a visual screening effect in terms of the roof gardens of some of the existing flats. However, there is potential for many to congregate towards the edges of the proposed roof garden so as to take advantage of views. In this context, I find that it would be possible to opt for a sensitively designed screen so as to protect the privacy of existing residents. This is a matter that could be controlled by means of the imposition of a planning condition.
32. I conclude that subject to conditions, the proposal would not give rise to any significant level of disturbance or loss of privacy for occupiers of the existing flats. To this extent, the proposal would therefore accord with the general amenity requirements of Policy 57 of the LP and paragraph 127(f) of the Framework which states that decisions should ensure that developments achieve a high standard of amenity for existing and future users.

Other Considerations

33. The proposal would boost the supply of housing in the context that there is a very low supply of demonstrable and deliverable housing sites in the area. The contribution from ten residential units would be a moderate social and public benefit. In addition, the development would make efficient use of a brownfield site in an accessible location and would add to the overall mix of house types in the area. The latter would be of some social and public benefit.
34. There would be some economic and public benefits from construction employment, albeit that this would be short lived. I have no doubt that additional residents on the site would seek to use local facilities and services

and that this in turn would lead to some positive economic benefits in the public interest.

35. Finally, I have no reason to doubt the appellant's comment that the proposal would save an estimated £80,000 for existing residents in terms of replacing the existing roof and that there would be associated safety from the installation of additional lighting and a CCTV system in the car park and common areas.
36. Collectively, I afford the above benefits positive weight in the overall planning balance.

Planning Balance and Conclusion

37. I have found that subject to conditions there would no significant harm caused to the living conditions of the occupiers of existing flats from a privacy or disturbance point of view. However, such a finding is of neutral consequence in the overall planning balance.
38. I have determined that significant harm would be caused to the character and appearance of the area. I have also concluded that less than substantial harm would be caused to the identified designated heritage assets, but that this would not be outweighed by the identified public benefits. I afford great weight to the conservation of the designated heritage assets. Having regard, to paragraph 11d of the Framework this provides a clear reason for refusing the development.
39. The proposed bin storage areas would not be satisfactory and unacceptable associated harm would be caused to highway safety. In addition, I have been unable to conclude that the proposal would not give rise to unacceptable levels of surface water flood risk and this also provides a clear reason for refusing the development.
40. On balance, I conclude that the above adverse impacts of the development would not be outweighed by the above benefits when assessed against the policies in the Framework taken as a whole; Policy 57 of the LP and Policies SP1, SP9 and D1 of the ELP. Therefore, the proposal would not deliver a sustainable form of development. Consequently, the appeal should be dismissed.

D Hartley

INSPECTOR