



Appeal Decision

Site visit made on 11 February 2021

by Eleni Randle BSc (hons) MSc FRICS FAAV MRTPI

an Inspector appointed by the Secretary of State

Decision date: 01 March 2021.

Appeal Ref: APP/Y1945/W/20/3261790

2 Cassiobury Drive, Watford, WD17 3AB

- 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 & Mrs John & Jayne McGroarty against the decision of Watford Borough Council.
 - The application Ref 20/00750/FUL dated 21 July 2020, was refused by notice dated 5 September 2020.
 - The development proposed is conversion of two storey semi-detached dwelling into two no. flats.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are i) the impact of the proposal upon the character of the area and whether the proposal would constitute over development, ii) the impact of the proposal upon the living conditions of future occupiers and iii) whether or not the proposal would result in additional on-street parking.

Reasons

Character and overdevelopment

3. The appeal site is a two-storey three-bedroom semi-detached dwelling located in a corner plot off Cassiobury Drive and Peace Drive. I note the Council's concern regarding precedent; however, fear of a precedent is not a reasonable ground for refusal. Each case should be considered on its own merits against the Local Plan taking into account all relevant material considerations.
4. The appellant's statement of case focuses strongly upon the proposal not being visibly noticeable and the fact that no external changes are required as part of the proposal. The Council acknowledge, in 6.4 of their report, that it would be barely noticeable that the site would consist of two flats. These are matters relating to appearance. It is, however, stressed that character and appearance are distinctly different matters. Character is concerned with what a place is like, including historical associations, and this is separate from appearance, i.e. what a place looks like (the visual effects).
5. The dwellings along Cassiobury Drive are mainly single houses in substantial plots and I find, from my site visit, that it has a spacious and suburban feel as a result of the typical plot sizes. The Council note that there are a limited number of semi-detached dwellings which are off Woodland Drive which is a short distance from the appeal site to the North West. The division of the site,

which has already occurred, is beyond the control of this proposal but it has resulted in plots which present as significantly smaller than the established plot sizes in the area. I find that the character of Cassiobury Drive is, therefore, characterised by single dwellings on large plots and I have no evidence of flatted development within the immediate area. I find that flatted development, as proposed, would be harmful to the character of the area. The fact that the proposal may well be, as the appellant contends, reversible in the future does not change this finding.

6. In addition it is noted that the site stands within a plot which was originally 4 Cassiobury Drive which was extended and then subdivided into two semi-detached dwellings. In addition, on the same site, a new dwelling (1 Peace Drive) was erected to the rear of the original garden. The proposal, to subdivide the appeal site into two flats, would result in four residential units (one semi-detached dwelling, two flats and a detached dwelling to the rear) on the site of what was once a single, detached, dwelling. I find that this, and the associated activity with the separate planning units and another subdivision, would represent overdevelopment of the site, as a result of the cumulative impact, that would further contribute to the harmful impact already identified to the character of the area.
7. The low density nature of the development in the area is noted but making effective use of land, as required within the National Planning Policy Framework 2019 (the Framework), does not necessarily mean creating developments of the highest densities possible. The presumption in favour of sustainable development, in the Framework has three overarching objectives which need to be pursued in mutually supportive ways. It is not solely concerned with location. As a result of the issues raised within this decision letter I do not find the proposal would meet all of the objectives of sustainable development.
8. The proposal would be contrary to Watford's Local Plan Part 1 Core Strategy 2013 (CS) Policy UD1 which requires that new development should respect and enhance the local character of the area within which it is located and saved CS Policy SS1 which seeks to ensure that new development protects and enhances the character of the area.

Living conditions of future occupiers

9. The proposed ground floor flat would retain the rear garden area. The appellant's submission states that the amenity space is adequate should it be described as communal. The appellant has made reference to several other application decisions; however, I have no information before me other than selected extracts from officer reports which limits the weight that I can apply to them taking them into account within this appeal.
10. Despite this I find that the site layout is such that the only access to the garden area is through the ground floor flat or via a side gate off Peace Drive. Once within the proposed communal garden area (stated to be 61.5 sq./m) there would be direct views into the bedroom and kitchen/dining space of the ground floor flat in close proximity. This in, in turn, would then raise further amenity issues relating to privacy as a result of the garden area being in communal use. I do not find the proposal for communal space to be realistic and I do not find that the provision of additional soft landscaping to the front and side of the property would assist given that it would not, I find, result in usable private amenity space.

11. As per the original submissions the first floor flat would, therefore, have no access to any private outdoor amenity space. Despite this the appeal site is located within close proximity to Cassiobury Park and other facilities and it is not uncommon for flatted development to have more limited access to/no direct private garden space by the very nature of the type of development.
12. In this case I do not find the lack of private outdoor amenity space, for the first floor flat, would result in an impact that would cause living conditions of such poor quality, nor any impact for future occupiers, significant enough to warrant refusal in relation to this issue. The proposal would be consistent with saved CS Policy SS1 which seeks to protect residential amenity.

Parking

13. The site stands within the Borough of Watford (Watford Central Area and West Watford Area) (Controlled Parking Zones) (Consolidation) Order 2010 (the 2010 order) to exempt the development from the entitlement to parking permits for the controlled parking zone in the vicinity of the site. The proposed plans (2097 drawing 10 July 2020) show single car parking to the front of the site. The existing site parking would belong to the ground floor flat and the first-floor flat would be car-free.
14. I note the appellant states that sufficient parking, for both units, could be accommodated on the drive to the front of the appeal site. Despite this the driveway is irregular in shape, partly enclosed with a hedge and access is constrained to a singular point with a drop kerb shared with the adjoining property. I find, as result of the site constraints, that it is very unlikely that unconnected planning units could successfully share the space available without some conflict blocking each other in, etc. This would therefore result in additional on-street parking which the Local Plan seeks to avoid as a result of the area already being congested.
15. I acknowledge that the appellants have clearly stated they are willing to enter into a Section 106 Unilateral Undertaking (UU), however, I have no completed UU before me as part of this appeal to which to attach weight. Submission of such a document would have overcome this reason for refusal.
16. In the absence of a planning obligation I have considered whether a planning condition could have been used to secure the requirements relating to parking, however, Planning Practice Guidance is clear that a negatively worded condition limiting that development cannot take place until a planning obligation or other agreement has been entered into is unlikely to be appropriate in the majority of cases unless there are exceptional circumstances. I do not find, in this case, that there are exceptional circumstances which would warrant the use of such a condition. A completed UU is required, prior to any consent granted, to provide legal certainty that mitigation can be delivered and effective. This is common practice within the planning system in relation to such matters. It is necessary to ensure one of the flats is car-free and will not result in additional on-street parking. There are no means of achieving this before me.
17. The proposal would conflict with Watford District Plan 2000 (DP) saved Policy T22 which requires development to comply with parking standards and secure financial contribution to the 2010 order and saved DP Policy T24 which states that planning permission will only be granted for residential use where the full parking needs generated can be met on site and off the public highway.

Other Matters

18. The Council's refusal reason cites conflict with DP saved Policy SE22, however, this policy is specific in its reference to noise sensitive uses which is not discussed or raised as an issue within the Council's assessment. Based upon the evidence before me I do not see the relevance of the inclusion of this policy within the first reason for refusal.
19. The appellant's personal circumstances, or lack of need for the first floor space, are of limited weight within this appeal. I acknowledge that the site is stated to have previously had consent to sub-divide the original dwelling into two flats, however, the approval has lapsed and therefore is of little weight within the determination of this appeal. It falls to consider the proposal against the Local Plan in force at the point of determination in accordance with S38(6) of the Planning and Compulsory Purchase Act 2004.
20. It is noted that no reason for refusal was based upon matters such as appearance and neighbouring amenity, however, a lack of objection on such matters is a neutral consideration. Comments regarding housing mix and lack of generally affordable dwellings in the area are noted but I have limited evidence before me on this matter. Whilst there may be social benefits due to the addition of a single flatted unit I find the social benefits would be limited taking into account the first floor unit can only be considered as a single bedroom unit¹. It would not, for example, realistically enable a younger, lower income, family, to remain the area. Notwithstanding this the proposal is not one which falls to be considered in the context of a tilted balance in the presence of an up-to-date Local Plan.
21. I note objections submitted which raise concern with character and appearance, amenity space, parking and over development of the appeal site in general. I have dealt with these matters within this decision letter so will not address these matters further in direct response to the objections received. Comments relating to restrictive covenants are private matters which fall outside the scope of this appeal. The Council have not raised any refusal reasons relating to privacy and I find no reason to conclude differently on such matters resulting in no requirement to view the appeal site from neighbouring properties.

Conclusion

22. For the reasons outlined above, and taking account all other matters raised, I conclude that the appeal should be dismissed.

Eleni Randle

INSPECTOR

¹ Section 6.5 of the Council's Report