
Appeal Decision

Site Visit made on 3 August 2021 by Emma Grierson BSc (Hons) MSc MRPTI

Decision by R C Kirby BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 August 2021

Appeal Ref: APP/N1920/W/21/3272872

6 - 8A Shenley Road, Borehamwood WD6 1DL

- 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 John Behrman against the decision of Hertsmere Borough Council.
 - The application Ref 20/1902/FUL, dated 18 November 2020, was refused by notice dated 15 January 2021.
 - The development proposed is the demolition of existing rear building and construction of replacement building to comprise 8 x 1-bed residential units.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Government published on 20 July 2021 a revised version of the National Planning Policy Framework (Framework). Accordingly, and in light of the reference made to the previous iteration of the Framework within the submitted evidence, the parties have been provided with a further opportunity to make submissions in respect of the publication. In this respect, I am mindful that the Council have not made any further submissions regarding the revised Framework. However, in light of this re-consultation, I am satisfied that any references made to the revised Framework within this decision would not be unreasonable to them. The comments which have been received from the appellant have been addressed within the appeal decision.

Main Issue

4. The main issues in the appeal are:
 - the effect of the proposed development on the character and appearance of the surrounding area in terms of its design and waste and recycling provision, and
 - the effect of the proposed development on the living conditions of the occupiers of the neighbouring properties in relation to outlook and daylight.

Reasons for the Recommendation

Character and Appearance

5. The appeal site is occupied by two three-storey buildings set within a row of retail units on Shenley Lane, with a number of extensions to the rear comprising various uses including retail, residential and office space. The site is located in a dense urban environment, with the surrounding buildings varied in both use and design. There is access to the rear of the site via a shared private road. The proposed development would replace some of the existing rear extensions with a U-shaped, four-storey building made up of eight self-contained flats.
6. The proposal would have limited visibility from Shenley Road and the view of the proposed development from Station Road would be somewhat blocked by the existing neighbouring development, Vision House. However, the proposal is markedly greater in height than the main bulk of Vision House and therefore would be a more dominant and visible addition from this viewpoint.
7. It is noted that there are some buildings in the surrounding area which are greater in height than the proposal. However, the significant four-storey height and bulk of the proposed building would be a much larger addition than any other building or extension to the rear of the row of retail units of Shenley Road and would subsume the existing buildings in this location. Due to this, the proposal would be out of keeping with its existing environment and would be a highly visible and incongruous addition when viewed from the west.
8. The appellant has highlighted a nearby development, known as Majestic House, which is similar to the proposed development and has been granted planning permission. However, the proposal is greater in height than this approved development and is set closer to Station Road. Therefore, it would have a greater impact on the character and appearance of the area than Majestic House.
9. It is also noted that the Council have some concerns as to whether the site has capacity for suitable waste and recycling provision. The area allocated on the appeal site would provide sufficient storage space for waste and recycling in accordance with the stipulations within the Waste Storage Provision Requirements for New Residential Developments document. Therefore, as the waste and recycling would be sufficiently stored, it would not significantly impact upon the character and appearance of the site or the surrounding area.
10. However, for the reasons above, I consider that the proposed development would harm the character and appearance of the surrounding area. It would therefore be contrary to Policies SADM3 and SADM30 of the Site Allocations and Development Management Policies Plan (2016) and Policy CS22 of the Core Strategy (2013). These policies require new development to have a high quality design which respects, enhances or improves the visual amenity of the area by virtue of its scale, mass, bulk, height and urban form.
11. The proposal would also be contrary to the design objectives of the National Planning Policy Framework and Part D of the Planning and Design Guide Supplementary Planning Document (2016).

Living Conditions

12. There are a number of windows on the rear elevation of the building fronting 6-8A Shenley Road, three of which the appellant has indicated serve the habitable rooms of residential properties. Although the windows may be south east facing, the proposed building would be constructed in front of these windows, at a significantly greater height than the existing situation and the consented scheme, with a limited separation distance. They would therefore restrict the occupiers' outlook from these windows and the daylight which they receive, and as a result of the development the rooms that these windows serve would be less pleasant to use.
13. Part D of the Planning and Design Guide Supplementary Planning Document (2016) may allow for a reduced separation between buildings where one opposing wall has no windows. However, due to the height of the proposed building substantially above that of these rear facing windows, the proposed separation between the buildings would not be sufficient to prevent a loss of outlook to occupiers of the dwellings which these windows serve. It is noted that occupants of 6-8A may only be short term, however the impact on outlook would be irrespective of the length of occupancy.
14. The proposal would have a greater separation distance from the rear windows of the buildings fronting Shenley Road than the neighbouring property, Vision House. However, the proposal is both greater in height and width than this neighbouring building and therefore would have a greater impact on the outlook from these windows, regardless of the difference in proximity.
15. Therefore, the proposed development would harm the living conditions of the residential occupiers of 6-8A Shenley Road, in conflict with Policies SADM3 and SADM30 of the Site Allocations and Development Management Policies Plan (2016) and Policy CS22 of the Core Strategy (2013). These policies require new development to have a high quality of design with a limited impact on the amenity of occupiers of the site and its surroundings in terms of outlook and light.
16. The proposal would also be contrary to the objectives of the Framework, in relation to amenity, and Part D of the Planning and Design Guide Supplementary Planning Document (2016) which ensures a reasonable outlook from habitable rooms in both new development and existing neighbouring buildings.

Other Matters

17. The appellant has stated that the Council have a need for residential units, however the table provided in their statement indicates a surplus of 883 dwellings rather than a shortfall. Nonetheless, a document provided by the appellant states that the Council cannot demonstrate a five-year supply of deliverable housing sites, with the figures provided indicating a provision of 2.92 years, which is a significant shortfall. This is not contended by the Council. Therefore, the provisions of footnote 8, paragraph 11 d) ii of the Framework is engaged and the policies most important for determining the application are out-of-date. This means planning permission should be granted unless, amongst other matters, any adverse impacts would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

18. The provision of eight new residential units would benefit the local economy and would make a small contribution to the supply of housing, with two further units than the previously approved scheme, which is given moderate weight. In that respect, the Framework aims to significantly boost the supply of homes, and seeks to support economic growth, with paragraph 120 stating that decisions should promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing. However, it also states that the creation of high-quality places is fundamental to what the planning and development process should achieve. It adds that development should be sympathetic to local character including the surrounding built environment and should have a high standard of amenity for existing and future users, neither of which are achieved in this case.
19. Overall, the substantial adverse impacts on the character and appearance of the area and the living conditions of the neighbouring occupiers would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole. As a result, the presumption in favour of sustainable development does not apply.
20. Furthermore, Paragraph 219 of the Framework makes it clear that due weight should be given to existing development plan policies according to their degree of consistency with the Framework. The development plan policies referred to above, which seek to protect the character and appearance of the area and the living conditions of neighbouring occupiers, are consistent with the Framework. Therefore, the proposal's significant conflict with them can be given considerable weight.
21. In view of the above, the proposal would be contrary to the aims of the development plan as a whole, and there are no other considerations, including the provisions of the Framework and the Council's shortfall in the supply of housing land, which outweigh this finding.

Conclusion and Recommendation

22. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

Emma Grierson

APPEAL PLANNING OFFICER

Inspector's Decision

23. I have considered all the submitted evidence and the Appeal Planning Officer's report and agree that the appeal should be dismissed.

RC Kirby

INSPECTOR