



Appeal Decision

Site visit made on 4 January 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2022

Appeal Ref: APP/Y1945/W/21/3281536

91-93 King Georges Avenue, Watford WD18 7QE

- 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 Andy Dhruva against the decision of Watford Borough Council.
 - The application Ref 21/00218/FUL, dated 15 February 2021, was refused by notice dated 28 July 2021.
 - The development proposed is demolition of existing two dwellings and erection of apartment block consisting of 9 flats and associated car parking and landscaping.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - i) the effect of the proposal on the character and appearance of the area; and
 - ii) the effect of the proposal on the living conditions of the occupiers of 12-28 Cassiobridge Road with particular regard to privacy, and the occupiers of 95 King Georges Avenue with particular regard to outlook.

Reasons

Character and Appearance

3. King Georges Avenue runs between two junctions with Whippendell Road. The appeal site is located on one of two sharp bends in the street, and includes a three-storey block of flats known as Hanover Court, as well as a pair of semi-detached dwellings at 91 and 93 King Georges Avenue. The proposal includes the demolition of Nos 91 and 93, and the construction of a three-storey block containing 9 flats.
4. The majority of buildings on the central section of King Georges Avenue are two-storey semi-detached or terraced dwellings of generally similar scale and a few similar original designs. However, sitting alongside these are Hanover Court, three-storey flats at Alwin Place which runs between 63 and 65 King Georges Avenue, and further three-storey flats at Argyle Court which is accessed from the other bend towards the east of the street. These buildings are set back in comparison to neighbouring two-storey dwellings, but the presence of three-storey blocks was in all cases readily appreciable from King Georges Avenue despite some partial screening by vegetation or adjacent development, and I cannot agree with the Council that they are of negligible or limited visibility. In addition, there are further three-storey blocks of flats at

Solar Court and Astra Court, a five-storey block at Rosefair Court, and a two-storey block with dormers at Whippendell Court nearby. Notwithstanding the proximity of these buildings to junctions with Whippendell Road, all include accesses from King Georges Avenue, and in my view have a clear relationship with this street scene.

5. The blocks vary in height and overall scale and are of assorted designs including pitched, hipped, flat and monopitched roofs. Although two-storey dwellings and hipped roof forms are the most prevalent elements along King Georges Avenue overall, I find that these blocks of flats have a distinct presence in the street scene. They result in some diversity in the form, appearance and overall layout of development in the vicinity of the appeal site, and in my view the flattened blocks form an important part of the established character and appearance of the street.
6. The development would be of substantially greater height, width and depth than nearby two-storey dwellings and the building that it would replace, and would alter the grain of this part of the street. Be that as it may, the Council's Residential Design Guide Adopted 2014 and Amended 2016 (RDG) notes that it is important that proposals respect, but not necessarily in all instances replicate, the height and scale of adjoining or nearby buildings. In this case, the scale of the building would not be out of keeping with other blocks of flats on King Georges Avenue, including Hanover Court adjacent. Moreover, I am satisfied that the separation that would be provided to nearby dwellings including the neighbour at 95 King Georges Avenue would ensure that the contrast in scale would not be visually jarring.
7. The building would be deep, and I acknowledge that fenestration to its sides would be very limited. Nevertheless, it would have a stepped footprint which would reduce in width towards the rear, and given the relationship with adjacent buildings which would offer screening, its overall depth would not be readily apparent in views from King Georges Avenue. Notwithstanding the illustration of the building in elevation, the stepped footprint would also provide for visual relief and would help to break up its appearance of scale and mass, and I do not consider that it would in reality appear unacceptably bulky or imposing in the street scene.
8. Some of the blocks of flats on the street are of generally traditional appearance, but Hanover Court and Rosefair Court are more contemporary and having regard to the mix of roof designs that are present to these buildings, I do not find that the proposed flat roof design would be a notable or detrimental feature. Fenestration, recessed balconies and brick detailing would add texture and visual interest to the front elevation of the building, and the suggested brick external finish would reflect the materials of the neighbouring dwellings. While different, I consider taking these factors into account that the appearance of the development would assimilate suitably with its surroundings as a contemporary addition, contributing to the existing visual interest and diversity of the area.
9. I appreciate that the site is in a prominent location on the bend in King Georges Avenue. Its position and proximity to the street also mean that the building would be much more visible than Hanover Court, and it would be noticeable for some distance in views on the approach to the site from both the south and east. Even so, the fact that the development would be visible is not in itself an

indication of harm. For the reasons above, I find that while the scale and design of the development would undoubtedly result in a significant change in the appearance of the appeal site, the development would sit comfortably within the street scene and would not stand out as an incongruous or discordant feature. In my view, the appeal scheme would make effective use of the site without undermining or detracting meaningfully from the area's character or appearance.

10. For the collective reasons outlined above, I conclude that the proposal would not cause unacceptable harm to the character or appearance of the area. The development therefore accords with Policy UD1 of the Core Strategy 2013 (CS) which seeks high quality design and which requires, amongst other things, that development respects and enhances the local character of the area in which it is located. It would also comply with the requirement within the RDG for development that respects nearby buildings, and the National Planning Policy Framework (the Framework) insofar as it seeks well-designed places and development that is sympathetic to local character and that adds to the quality of an area.

Living Conditions

11. The proposed replacement building would project much deeper into the appeal site than Nos 91 and 93 currently, and would extend well beyond the rear of the neighbouring dwelling at No 95. It would reduce in width towards the rear, and large set-ins to the deepest sections mean that they would be likely to be largely screened to views from windows to the rear of No 95 by the front part of the building. Noting also the separation between the 2 deepest sections of the building and the boundary with No 95, I consider that these elements of the development would not cause an undue sense of enclosure or appear overly dominant.
12. However, the widest section at the front of the building would still extend significantly deeper than No 95. I appreciate that the existing dwellings similarly project beyond the rear of this neighbour, but the development would be of greater height, and would be significantly higher than the two-storey projection to the side of No 93 that is presently closest to the boundary. In comparison to the pitched roof forms of the existing dwellings on the site, the proposed flat roof design would also add considerable bulk and mass to the upper part of the building.
13. The closest part of the development would be set in around 4.5m from the boundary with No 95. Even so, the separation would not be large in comparison to the overall scale of the development, and it would be visible from windows to No 95's rear. I note that the appellant indicates that there would be only a slight infringement of a 45 degree line from No 95, but guidance on the '45 degree rule' within the RDG indicates that it concerns the maintenance of adequate levels of daylight, rather than outlook. In my judgement, the considerable bulk and mass of the upper part of the building and its greater height and significant depth beyond the rear of No 95 would result in a dominant and intrusive feature in views from windows to the rear of this dwelling, and a significant increase in the degree of enclosure from that already experienced by occupiers. As a consequence, I find that the development would be overbearing and it would cause unacceptable harm to outlook for the occupiers of No 95.

14. Turning to consider privacy, the appellant does not dispute the Council's assertion that the building would be positioned around 22.6m from the rear of neighbouring dwellings on Cassiobridge Road at the closest point. This would be significantly below the 27.5m minimum privacy distance which is generally sought by the RDG. I acknowledge that separation would be similar to that found between Hanover Court and the dwellings to its rear. However, the rear part of Hanover Court is only two-storeys high, with the three-storey section at the front of this building set significantly further from the boundary to its rear than would be the case in the development now proposed. I therefore disagree with the suggestion in the Council's report to Committee that the relationship would not be materially different or harmful to properties along Cassiobridge Road than that which already exists.
15. To the contrary, I find that the proposal would afford higher level views in closer proximity to the rear of neighbouring dwellings on Cassiobridge Road than are currently possible from Hanover Court. I accept that some mutual overlooking is not unusual in residential areas and that the separation to the boundary would accord with guidance in the RDG. Nevertheless, I find that the close range at which views would occur contrary to guidance in the RDG on separation between buildings, and from a number of windows at three-storey height, would in this case result in a harmful degree of overlooking to neighbours to the rear of the development and a consequent loss of privacy which would be harmful to their living conditions.
16. For these reasons, I conclude that the proposal would cause unacceptable harm to the living conditions of the occupiers of 95 King Georges Avenue through loss of outlook, and to the living conditions of the occupiers of 12-28 Cassiobridge Road through loss of privacy. It would therefore conflict with Policies SS1 and UD1 of the CS insofar as they broadly seek high quality design and the protection of residential amenity, as well as guidance within the RDG intended to ensure adequate levels of outlook and privacy as part of development.

Other Matters

17. I note that the planning application was recommended for approval by Council officers. However, I must come to my own view on the basis of the evidence before me, and this is not a matter which leads me to alter my findings on the main issues.
18. I have had regard to representations made by interested parties which raise concerns including in relation to highway safety and local parking pressure, impacts on ecology and light for neighbouring properties, pressure on local infrastructure and the loss of family houses. None of the matters raised alter my conclusions on the main issues though.

Planning Balance

19. The Council accepts that it cannot demonstrate a 5 year supply of deliverable housing sites, and advises that the results of the Housing Delivery Test indicate delivery of housing has been less than half of required levels over the previous 3 years. The Framework therefore indicates that the policies which are most important for determining the application would be deemed out-of-date, and the presumption in favour of sustainable development test set out in paragraph 11(d) of the Framework would be engaged. This provides that planning permission should be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

20. The proposal would make use of a previously developed site to deliver a net gain of 7 dwellings towards the supply of housing locally. The Framework refers to boosting significantly the supply of housing, and highlights that small and medium sized sites such as this can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. It promotes the effective use of land and the development of under-utilised land including to meet needs for housing, and indicates that development of windfall sites should be supported, giving great weight to the benefits of using suitable sites within existing settlements for homes. In light of these objectives, and with regard to the past and ongoing housing undersupply against requirements, the provision of additional homes for which there is an acknowledged need is a benefit of considerable importance, and I afford it great weight. However, the extent of the benefit and the contribution made to the mix and supply of housing overall would be limited by the modest scale of the proposal.
21. Moreover, I have found that the proposal would cause unacceptable harm to the living conditions of the occupiers of 95 King Georges Avenue and 12-28 Cassiobridge Road. This would be contrary to requirements in the Framework for high quality design and development that provides a high standard of amenity for existing users. While I have no reason to doubt that the proposed dwellings would offer a suitable standard of accommodation to future occupiers and residents would have good access to nearby local services and public transport, I consider that the detrimental impact on the quality of accommodation offered by these existing dwellings would moderate the overall benefit through the provision of additional housing.
22. The harm that I have identified to the living conditions of neighbouring occupiers would be significant, and would affect a number of dwellings. I attach significant weight to this harm, and I find in the context of paragraph 11(d) of the Framework that the adverse impacts of the development would significantly and demonstrably outweigh the modest benefits when assessed against the policies in the Framework taken as a whole. The proposal would not therefore benefit from the presumption in favour of sustainable development within the Framework. Neither do I find that there are material considerations sufficient to justify a decision otherwise than in accordance with the development plan.

Conclusion

23. For the reasons given above, I find that the proposal would conflict with the development plan when it is read as a whole, and material considerations including the Framework do not indicate that a decision contrary to the development plan should be reached. I therefore conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR