
Appeal Decision

Site visit made on 7 January 2022

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 January 2022

Appeal Ref: APP/Y1945/W/21/3276717
104 Estcourt Road, Watford WD17 2PZ

- 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 Newcrown Investments Ltd against the decision of Watford Borough Council.
 - The application Ref 21/00097/FUL, dated 25 January 2021, was refused by notice dated 25 March 2021.
 - The development proposed is erection of a 2 storey 2-bedroom dwelling on an infill plot at No.104 Estcourt Road.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description of development in the banner heading above from the Council's Decision Notice as it is a more succinct description to the one provided in Part 5 of the planning application form. The appellant has adopted this description in their appeal form confirming is the development they are seeking planning permission for.
3. The appellant has submitted amended plans with the appeal – refs. 281-3-A01 Rev A; 281-3-A02 Rev A; 281-3-A03 Rev O; 281-3-GA0002 Rev C and Estcourt Road Panoramic View. The main differences between these plans and those which the Council made its decision on are as follows: addition of decorative diamond motif at first-floor level; subdivision/sash arrangement of windows; change of materials within internal lightwell; and change from Corten panels to satin brass.
4. In considering the revised proposals, I am mindful that the appeal process should not be used to evolve a scheme and it is important that what is considered by an Inspector is essentially what was considered by the Council, and on which interested people's views were sought. In my view, although individually the changes put forward are minor, taken together, these amendments would materially change the proposal. In the interests of fairness and with regard to the principles in *Bernard Wheatcroft Ltd v SSE & Harborough DC [1982] JPL P37*, I have therefore determined the appeal based on the plans which were before interested parties and the Council at the time of its decision.

Main Issues

5. The main issues in the appeal are:

- whether the proposal would preserve or enhance the character or appearance of the Estcourt Conservation Area.
- the effect of the proposals on the living conditions of the neighbour at No.106 Estcourt Road, with regard daylight, sunlight and outlook.
- whether the proposal would provide satisfactory living conditions for future occupiers, with particular regard to internal space.
- whether or not the proposed parking arrangements would be acceptable.

Reasons

Character and Appearance – Estcourt Conservation Area

6. The appeal site is a cleared parcel of land between No.102 and No.106 Estcourt Road, formerly part of a larger site to the rear of Nos. 96 to 104 Estcourt Road now developed for housing. It is within the Estcourt Conservation Area (CA). In accordance with Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Further, paragraph 199 of the National Planning Policy Framework (the Framework) advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. The Council's Estcourt Conservation Area Character Appraisal (2015) (CACA) describes the special interest of the CA as its '*mixed-use character with terraced housing interspersed with small workshops and yards, as well as a wide variety of public houses, independent shops and public buildings.*' The predominant building form is two-storey terraces with pitched roofs mainly built with yellow London stock brick, with red brick used for decoration and detailing. The CA has a tight urban grain and there is much consistency in building heights, elevational details and external materials. This strong, small scale streetscape is described in the CACA as an important feature and contributes to the Victorian heritage significance of the CA.
8. Estcourt Road runs north to south almost the length of the CA and reflects its wider character and appearance. It principally comprises two-storey terraced houses with traditional pitched roofs, many with brick chimneys. A number of the houses are constructed of yellow stock brick, but there is reasonable variation in the materials used on Estcourt Road, including red brick and render. There is consistency in the pattern of fenestration with ground and first-floor windows generally stacked, some with ground floor bays.
9. Adjoining the appeal site to the north is an attractive composition of two-storey terraced properties which includes the gated archway to the 'Clifford & Grough Offices' (now housing). No.102 Estcourt Road (No.102) has a render finish, but most are of yellow brick construction, with pitched slate or clay tile roofs, stone window lintels and red brick detailing, including horizontal banding between the ground and first floor. To the south, is a pair of semi-detached houses again of yellow brick construction with a pitched roof and facing gable. These have

grander proportions and a wider frontage than the neighbouring terrace housing.

10. The appeal proposal is to construct a two-bedroom house, adjoining its neighbour at No.102, sited so that its front elevation continues the building line of the existing terrace of housing described above. The proposed house has been designed so that the front elevation steps in, meaning that there is a narrow two-storey element and an even narrower single storey element (both with flat roof). Set back within the site would be a further single storey element, visible from the street. It is recognised that the volumetric forms and setback of the first-floor attempts to minimise the loss of daylight/sunlight to the non-adjointed neighbour at No.106 Estcourt Road. However, the composition of the house would appear as three connected blocks or volumes of built form prominent in the streetscene. It would appear a complex, and somewhat contrived composition, that would not reflect, or draw any particular reference from, the simple forms and proportions of the surrounding Victorian housing.
11. The ground and first floor windows of the proposed house have been stacked and positioned to align horizontally with the first-floor window of No.102. Estcourt Road slopes north to south and therefore the ground floor window has been aligned with the non-attached neighbour at No.106 Estcourt Road (No.106). The appeal proposal omits any lintel details which are a characteristic of houses on Estcourt Road (predominantly stone), but I nonetheless find that the simple design, proportions and stacked arrangement of the windows reflects the pattern and appearance of fenestration in Estcourt Road and the wider CA. I note that the front door of the proposed house has been positioned on the side elevation, taking a cue from the arrangement of the neighbour at No.106. Notwithstanding, I find this positioning would reduce the legibility of the terrace, breaking its rhythm of windows and doors and serves to emphasise the narrow frontage of the proposed house.
12. The house is proposed to be finished in a series of modular Corten panels that, from the submitted photograph of the proposed materials (281-3-GA0001-B), appear a rusty red, or terracotta, colour. As described above, there is some variation in materials used in Estcourt Road and although it would contrast with the traditional brick and render in tone and texture, the colour of the Corten would complement the existing palette of yellow and red, particularly the red accent and corner brickwork. The Corten would, however, be set out as a series of relatively small panels arranged as horizontal and vertical bands. Whilst I recognise that this has been designed to pick up the strands of horizontal red brick courses on the neighbouring houses, I am not persuaded, as the appellant suggests, that it successfully draws on the proportions of the urban grain and rhythm of adjacent buildings. I concur with the Council's observation that the patchwork arrangement would result in a cluttered, rather than clean appearance of the building.
13. I am mindful of the guidance at paragraph 130 of the Framework that innovation should not be prevented or discouraged and agree with the Council that designing in context does not preclude contemporary design. I also note that the pre-application advice provided (ref. 20/00988/PREAPP) was that '*a two-storey flat roof scheme of contemporary style may best solve the site.*' The roofscape of Estcourt Road is predominantly traditional pitch, but the site is between No.102 which has high eaves and a relatively shallow roof pitch and

No.106 which has much lower eaves, a facing gable and steep pitch. A contemporary, flat (green) roof could therefore provide an appropriate transition between the two. However, the proposed flat roof would extend to the top of the soffit of the eaves of No.102 which would appear a clumsy detail. I acknowledge the advice within the Council's Residential Design Guide (adopted 2014, amended 2016) (RDG) that development should not necessarily replicate the height of adjoining buildings but, in my assessment, the result would be a visually incoherent roof height and profile. The roof would appear a somewhat jarring and discordant feature in the streetscene rather than contributing to a high-quality contemporary building designed in context.

14. Although I find the materials and window detailing acceptable, overall I find the design of the proposed house – notably the series of building forms – to detract from the character and appearance of the CA. The scale of the development and localised nature of the impact means that I find that harm to the CA would be less than substantial. Paragraph 202 of the Framework advises that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.
15. The appeal proposal would make effective use of a small previously developed site in an accessible location, close to Watford town centre, and would provide an additional house to the local supply. In these regards, it would align with objectives within the Framework that seek the efficient use of land and to significantly boost the supply of housing. However, given the small scale of the proposal the contributions would be modest. Conversely, I give considerable importance and weight to the less than substantial harm that would be caused to the significance of the CA in accordance with the Framework. Even taken together, I do not find that the public benefits of the proposal would be sufficient to outweigh this harm.
16. As such, the proposals conflict with the guidance in the Framework, RDG, saved policies UD18 and UD19 of the Watford District Plan 2000 (2003) (WDP) and policies UD1, UD2 and SS1 of the Watford Local Plan Part 1 – Core Strategy 2006-31 (2013) (CS). Collectively, and amongst other things, these policies and guidance seek to ensure all new development in Conservation Areas achieves high standard of design, respects and enhances local character and conserves or enhances the historic environment.

Living conditions – existing occupiers

17. The sole window to the main living room of No.106 Estcourt Road (No.106) is located on the side elevation of the house facing south toward the appeal site. It is a large bay window with the central pane positioned around 0.9m from the common boundary. I saw on site that this window has a close, and somewhat uncomfortable relationship, with the appeal site. The window is however afforded some degree of outlook over the appeal site because of the low boundary wall which is at a height just below the bottom cill of the window (topped with open trellising).
18. I appreciate that the side building line has been thoughtfully recessed to create an area (described as a lightwell) between the two-storey element of the proposed house and the bay window of No.106. Despite this, the proposed house would extend the full width of the window, over two-storeys, standing directly in line with it at a reasonably close proximity. In combination, these

factors would result in the new house appearing a highly dominant and oppressive feature, substantially obscuring outlook. The harm to outlook would materially reduce the reasonable enjoyment of the living room for the occupiers of No.106.

19. With regard to light levels, a Daylight, Sunlight and Overshadowing Assessment following BRE guidelines (the BRE Report) was submitted with the planning application. This found that the Vertical Sky Component (VSC), which measures the percentage of sky visible from the centre of the window, do not fully achieve BRE guidance. They will receive a level of daylight with the proposed development of less than 27% VSC and the proposed level of daylight would be reduced by more than 20%. In fact, the VSC would be reduced by around 40%, 50% and 60% for the three measured panes of glass in the bay window (windows 3,4 and 5). The BRE guidance categorises this as being a 'noticeable change.' Moreover, over the full year, the proposal would result in the south facing bay window of No.106 receiving only half the existing sunlight, and during the winter months none at all.
20. The appellant relies on the BRE guidance that alternative VSC targets for windows may be considered appropriate *'where an existing building has windows that are unusually close to the site boundary and taking more than their fair share of light.'* In this scenario, a 'mirror image' building of the same height and size, an equal distance away on the other side of the boundary is assessed as a comparison to the proposal. The BRE Report shows that the VSC for the 'mirror image' would be 7.41%, 3.06% and 0.97% for windows 3,4 and 5 respectively. So, lower than the appeal proposals of 12.21%, 9.99% and 3.87% for the same windows.
21. I accept that 'mirror image' modelling is an accepted and appropriate approach in certain circumstances, but I am not persuaded that it is appropriate here. First, the bay window of No.106 is offset from the common boundary with the appeal site by around 0.9m which is not unusually close in an urban context. It is the orientation of the living room of No.106, with its sole window to the side, which is perhaps unusual. Secondly, the windows are not taking more than their 'fair share' of light. The BRE Report shows that the existing VSC of windows 3, 4 and 5 are 19.95%, 19.97% and 9.59% which is already below the BRE target of 27%. The BRE guidance is that transgressions from the numerical guidelines does not necessarily mean that the impact of the development would be significant or unacceptable. However, in this case, the living room of No.106 already receives a restricted level of light and is therefore sensitive to further change. The loss of light resulting from the appeal proposal would be both significant and noticeable, again reducing the reasonable enjoyment of the living room.
22. For these reasons, I conclude on this main issue that the development would cause unacceptable harm to the living conditions of the occupiers of neighbouring dwelling at No.106 Estcourt Road through significant harm to outlook and light loss. As a result, the proposal would conflict with CS policies UD1 and SS1 which require, amongst other things, high quality design and that residential amenity is protected. It would also be contrary to advice within the RDG requiring consideration for light, outlook and privacy for neighbouring occupiers, and paragraph 130 of the Framework insofar as it requires development to create places with a high standard of amenity for existing and future users.

Living Conditions – Future Occupiers

23. The internal space standards outlined in the Council's RDG (at section 7.3.6) are the same as those in the *Technical Housing Standards – Nationally Described Space Standard (2015)*. The minimum GIA for a 2 bedroom-3person and 2 bedroom-4person dwelling (over two storeys) is 70sqm and 79sqm respectively. I note that the Design and Access Statement submitted with the planning application, and the appellant's Grounds of Appeal, describe the scheme in the same terms, namely as a 2-bedroom-3 person property, albeit the proposed floorplans show double beds in the two bedrooms. The scheme has been remeasured by the appellant and the total GIA is now given as 78.49sqm, rather than the 73sqm cited in the Council's Decision Notice. I have no reason, or evidence to the contrary, to dispute this measurement. I am therefore satisfied that suitable internal space for future occupiers of a 2-bedroom 3-person house would be provided.
24. Consequently, in this regard the proposal would accord with the guidance in the RDG and CS Policy SS1 which seeks, amongst other things, new development to protect residential amenity. I note that CS Policy UD1 does not refer to living conditions.

Car parking

25. Saved WDP Policies T22 and T24 outline parking standards to be met by development, and advise that these should be met on site unless it is a suitable Town Centre site or other location with good access to passenger transport. The site is within the Central/West Watford Controlled Parking Zone.
26. A draft Unilateral Undertaking (UU) has been submitted with the appeal which would secure a financial contribution towards a variation of the Watford Central Area and West Watford Area Controlled Parking Zone to restrict occupiers of the proposed house from obtaining parking permits in the vicinity of the appeal site. The Council have confirmed that the development, because of its accessibility, is suitable for car free development and that this could be secured by a UU. However, as I am dismissing the appeal for other substantive reasons, it is not necessary for me to consider whether or not the UU meets the tests set out in Regulation 122 of the Community Infrastructure Levy Regulations.

Conclusions

27. Notwithstanding my conclusions regarding the living conditions of future occupiers and car parking, I have found less than substantial harm in respect of the character and appearance of the Estcourt Conservation area and significant harm to the living conditions of the occupiers at No.106 Estcourt Road. The proposal therefore conflicts with the development plan and there are no other considerations that justify setting aside that conflict.
28. For the reasons outlined above, the appeal is dismissed.

R Jones

INSPECTOR