



Appeal Decision

Site visit made on 14 January 2022

by Robert Fallon B.Sc. (Hons) PGDipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 March 2022

Appeal Ref: APP/B1930/W/21/3272162
219 Hatfield Road, St Albans, AL1 4SY

- 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 Kevin Luckhurst against the decision of St Albans City & District Council.
 - The application Ref 5/20/3168 dated 24 December 2020, was refused by notice dated 18 March 2021.
 - The development proposed is described on the application form as "Redevelopment and extension of a ground floor retail unit to create a smaller retail unit and a new 1-bedroom dwelling with a separate access".
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Kevin Luckhurst against St Albans City & District Council. This application is the subject of a separate Decision.

Procedural matters

3. For clarity, I have used the development description shown on the application form, which differs from that on the decision notice and appeal form.
4. The appellant has submitted an amended plan (KAD 02A PRO Rev D) that illustrates a reduced fence height to the site frontage and clarification of how the bins will be positioned in the bin storage area. Taking into account the judgement given in *Bernard Wheatcroft Ltd v Secretary of State for the Environment and Harborough District Council* [1980], I am satisfied that the Council and third parties would not be prejudiced by this minor change & additional information and as a consequence I have considered the appeal on the basis of this amended plan.
5. Since the appeal was submitted, a revised version of the Framework¹ has been published. The Council and appellant were given the opportunity to comment on this and I have taken their responses into account.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government, July 2021.

Main issues

6. The main issues are the effect of the development on:

- the character and amenity of the area, with particular regard to the storage of bins; and
- the living conditions of future occupiers of the proposed dwelling, with particular regard to defensible space, privacy and outlook.

Reasons

Appeal site context

7. The appeal site lies on the corner of Hatfield Road and Arthur Road. It contains an attractive 2½ storey Victorian/Edwardian building, which forms part of a larger terrace and retail parade that fronts onto the busy Hatfield Road (the A1057). The proposed 1-bedroom dwelling would be positioned on the building's side return and front onto Arthur Road, which consists of attractive 2-storey Victorian/Edwardian terraced housing.

Character and amenity of the area

8. The proposed plans reveal a narrow bin storage area accommodating two bins. It is not clear from the Council's evidence how many wheelie bins would be required to meet the requirements of the proposed dwelling, or even if the bins shown on the plans are of the correct capacity and dimensions.
9. However, in the absence of any evidence from the Council on this matter, I have considered the bin storage area on the basis of the submitted drawings which reveal two bins, and the appellants evidence which refers to the use of pre-paid waste bags for the retail unit. With respect to the latter, although the appellant states that these could be stored internally, I would not consider this to be either desirable or appropriate, particularly given the reduced size of the retail unit following development and the impact that smell & odour might have on its future viability as a business. As a consequence, it is my view that future retail occupiers would store their waste outside. I have therefore considered the scheme before me on the basis that the external bin storage area would need to accommodate waste for both the new dwelling and retail unit. In this respect, I do not consider both waste streams sharing the same location to be problematic subject to the issues below.
10. By reason of its narrow width, there is insufficient space in the bin storage area to allow both wheelie bins to be accessed by users in a parallel formation and removed for collection independently of each other. As a consequence, it has been necessary for both wheelie bins to be positioned in a tandem formation.
11. I recognise that it might be possible for some users to squeeze past the first wheelie bin to dispose of waste in the second, or reach over it if they are tall, but to my mind, this would not prove acceptable to most users because such actions would give rise to potential staining/marketing of clothes and associated odours; - a process that would prove even more arduous if there were separate retail waste bags stored in the same area (and not in one of the waste receptacles). For those with disability and/or mobility problems, these difficulties would be even more acute. As a consequence, it is my view that

- users would be inclined to leave at least one of the wheelie bins outside of the bin storage area on the public footway, in full public view.
12. Furthermore, even if users were prepared, despite these access difficulties, to dispose of waste in the wheelie bins inside the bin storage area, it would still not address the issue of collection of both waste receptacles, which might take place at different times and/or days, and necessitate the first wheelie bin to be taken out to retrieve the second and vice versa once it had been emptied. To my mind, users would not be inclined to routinely carry out such an activity because of the perceived difficulties associated with it, and would consequently leave the wheelie bins on the public footway, in full public view.
 13. The presence of one or both wheelie bins on the public footway in full public view would constitute unnecessary, visually intrusive clutter within the streetscene that would harm the character of the area and make navigation of the footway more difficult for pedestrians, potentially forcing some to step into the vehicular highway. It would also create additional obstacles for parents with small children walking alongside them or in pushchairs, and those with disabilities, such as those with a guide dog/white mobility cane or in wheelchairs/mobility scooters.
 14. I recognise from my site inspection that a number of other residential and retail properties keep their wheelie bins on the public footway. However, I do not consider the considerable harm this creates to be a sound justification to allow the situation to deteriorate even further;- on the contrary, their presence demonstrates to me that a line needs to be drawn or further unsympathetic development and potentially dangerous public footway obstacles will be the result.
 15. In view of the above, I conclude that the scheme would harm the character & amenity of the area. The proposal would therefore conflict with Policy 11 of the Local Plan², which seeks, amongst other things, to ensure that conversions do not harm the character and amenity of the surrounding area.
 16. I also find that the scheme conflicts with Paragraphs 110, 112, 126, 130 and 134 Framework, which seek, amongst other things: (a) the creation of high quality, beautiful places; (b) development that functions well and adds to the overall quality of an area; (c) development that is sympathetic to local character; (d) the creation of safe, attractive and welcoming places to live, work and visit; (e) the creation of places that are accessible, with a high standard of amenity for existing and future users; (f) safe and suitable access for all users; (g) priority to pedestrian movements; (h) development that addresses the needs of people with disabilities and reduced mobility; and (i) the refusal of development that is not well-designed.

Living conditions

17. The amended plan shows a reduction in the height of the boundary fence which would enable a good standard of outlook from the property. The habitable room windows to the dwelling would be within 3 metres of the public footway as normally sought by Policy 70(x), but this is necessary for the scheme to accord with local character, where existing housing directly abuts the footway. I recognise that this would afford a lower standard of defensible space and

² St Albans District Plan, City and District of St Albans District Local Plan Review, Adopted 30 November 1994, Written Statement.

privacy, but am satisfied that future occupants would be able to mitigate this through the use of internal blinds and net curtains if they considered it necessary.

18. In view of the above, I conclude that the development would not be harmful to the living conditions of future occupiers of the dwelling. The proposal would therefore accord with Policy 70 of the Local Plan, which seeks, amongst other things, to ensure that new development has a tolerable level of security and privacy.
19. I also find that this element of the scheme accords with Paragraph 130 of the Framework which seeks, amongst other things, to ensure that development creates places with a high standard of amenity for future users.

Other matters

20. I note the Appellant's frustrations regarding the Council's decision not to request additional bin storage information and the discussions that took place at Committee, but these have little bearing on the planning merits of the scheme before me and are a matter between the parties.

Planning balance

21. Although the Local Plan is over 5 years old, Paragraph 219 of the Framework states that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework and that due weight should be given to them according to their degree of consistency with the Framework.
22. Policies 11 and 70 of the Local Plan are broadly consistent with the Framework insofar as they relate to the main issue of this case and I am satisfied that the proposal conflicts with the development plan when taken as a whole.
23. There is no dispute between the parties that there is a significant shortfall in the District's 5-year housing land supply and I have also noted that the delivery of housing was substantially below the housing requirement over the previous three years³. This means that the Framework's presumption in favour of sustainable development applies.
24. I recognise that the scheme would result in economic and social benefits from;
- (a) a quickly-deliverable contribution towards the Council's 5-year housing land supply; (b) future occupiers contributing to the vitality and viability of shops, services, facilities, businesses and community organisations in the surrounding area; and (c) local employment during construction. However, given the small size of the development in terms of housing units, I consider these benefits to be of limited value and that the adverse impacts of the scheme would significantly and demonstrably outweigh these, when assessed against the policies in the Framework when taken as a whole.
25. In view of the above, I conclude that the proposal does not accord with the development plan and that other material considerations do not indicate that the proposal should be determined other than in accordance with this.

³ 2021 Housing Delivery Test.

Conclusion

26. Although I have concluded that there is no harm in respect of the main issue relating to living conditions, I am nonetheless satisfied that the harm identified in respect of the main issue relating to character and amenity is sufficient to still justify dismissal of the appeal.
27. All representations have been taken into account, but no matters, including the benefits of the development and the scope of possible planning conditions, have been found to outweigh the identified harm and policy conflict. For the reasons above, the appeal should be dismissed.

Robert Fallon

INSPECTOR