



Appeal Decision

Site visit made on 1 April 2022

by Julie Dale Clark BA (Hons) DipTP MCD DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th May 2022

Appeal Ref: APP/Y1945/W/21/3277535
26 & 28 Upton Road, Watford WD18 0JF

- 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 Akelius UK Twelve Ltd against the decision of Watford Borough Council.
 - The application Ref 20/01495/FUL, dated 24 December 2020, was refused by notice dated 25 March 2021.
 - The development proposed is refurbishment of existing HMO (to include part demolition and rear extension, reduction from 27 to 25 rooms, new kitchens and plant room, external alterations (including removal of chimneys and rear fire escape and window amendments) and new residential development (Use Class C3) with associated amenity space, landscaping, disabled parking space, cycle parking, refuse storage and associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. I consider that the main issues are the effect of the new development on:
 - the character and appearance of the area;
 - the living conditions of the occupiers of existing and future properties; and
 - trees.

Reasons

Character and Appearance

3. The appeal site relates to Nos 26 and 28 Upton Road which are currently in use as a House in Multiple Occupation (HMO). It is located on the edge of Watford Town Centre in an area comprising a mix of uses and building styles. An access between the buildings at ground floor level leads to an open hardsurfaced area bounded by trees. A few cars were parked on the site at the time of my site visit.
4. The proposal includes refurbishing the existing building and reducing the number of units from 27 to 25 and the erection of three new self-contained

residential units. The Council's reasons for refusal relate mainly to the new build residential development. I am informed that a separate application for refurbishing the HMO only has been approved by the Council¹.

5. The three new units would take up the existing hardsurfaced parking area. Each of the three units would provide two bedroomed accommodation on two floors and include its own private amenity space. Whilst these units would intensify the built form, they would make use of an otherwise largely unused area of land within the urban area. Also, whilst they would be sited behind No 26 and 28 and so not have a direct frontage with Upton road, they would be part of the overall HMO although they themselves would be different in character to the HMO units.
6. Core Strategy² Policy SS 1 sets out the Council's spatial strategy for development across the Borough and amongst other things, establishes that the Council expect a high standard of sustainability and design and a positively integrated approach to development. Policy UD 1 requires all new development to adhere to a set of design principles which, amongst other things, requires new development to respect and enhance local character. Further guidance for residential development is also provided in the Council's Residential Design Guide³. The National Planning Framework⁴ also seeks to achieve sustainable well designed development and makes it clear that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design, it points out, is a key aspect of sustainable development.
7. The proposal would result in the loss of an open area to the rear of the existing HMO and together with the HMO would represent a fairly intensive development of the site. The proposed new build would see an intensification of buildings on the site and overall the site would accommodate a substantial number of residential units. Whilst this is an urban area, there is space behind frontage buildings which are largely undeveloped, although neighbouring land is used for car parking. This intensification would overdevelop the site, which would increase the amount of building on the site to such extent as to have a harmful effect on the character and appearance of the area and conflict with policies SS 1, UD 1 and the Framework.
8. On this issue therefore, I find that the proposal would have a harmful effect on the character and appearance of the area.

Living Conditions

9. In addition to the requirements of policies SS 1 and UD 1, the Council's Residential Design Guide sets out standards for internal room space, privacy and outlook, private gardens and waste storage and recycling.
10. The reasons for refusal indicate that the proposal would provide substandard living accommodation for the future occupiers of the proposed new residential units and harm the living conditions of occupiers of units in the HMO. However, the occupiers of the proposed new units would satisfy the standards set out in

¹ Planning Application Ref: 21/00735/FUL.

² Watford Borough Council Watford's Local Plan Part 1 – Core Strategy 2006 – 31, Adopted 30 January 2013.

³ Watford Borough Council Residential Design Guide, Adopted – July 2014, Amended – August 2016.

⁴ Ministry of Housing, Communities and Local Government National Planning Policy Framework, 2021 (the Framework).

Nationally Described Space Standards⁵ and the Council's Residential Design Guide. The proposal would also not be in breach of the Council's HMO Amenity Space Standards⁶. Harm to the living conditions of future occupiers of the proposed new residential units cannot therefore be justified.

11. The existing HMO's can access the rear tarmac car park but this would provide restricted outdoor amenity space, especially if it were used for car parking. At the time of my site visit there was no indication that this area provided useable outdoor amenity space. However, part of it could be used by residents of the HMO but that opportunity would be lost should the new development take place. Having said this, I note that the Council's HMO Amenity Space Standard documents makes no reference to requiring communal amenity space. The proposal would in fact designate a small area between the HMO's and the new development as a sitting out area although this would be very limited in size.
12. Turning to the effect of the proposal on residents of neighbouring properties. I do not consider that the proposed new build would impact on the living conditions of the occupiers of neighbouring properties and I disagree that the new build would be excessively dominant or overbearing in this context.
13. In terms of the effect of the new build on the residents of the HMO, the Council has specifically referred to the occupiers of No 26. The new units would be sited to the north of No 26 and so the proposal would not lead to overshadowing. The bicycle and bin storage areas would be located between No 26 and the new units with a boundary wall separating them. This is not an ideal arrangement especially for the occupiers of two of the ground floor units in the HMO but I do not consider that it to be such as to amount to a poor standard of living accommodation.
14. Overall the living conditions in the HMO would be improved and inevitably some will have better outlooks than others. However, I do not find that the living conditions of future occupiers of the improved HMO would be of a standard to resist this scheme overall.
15. On this issue therefore, I do not consider that the proposal would have a harmful effect on the living conditions of the occupiers of existing or future occupiers. No conflict with the policies referred to would arise in the context of this issue.

Trees

16. Watford District Plan⁷ Policy SE37 indicates that the Council places a high priority on protecting trees although the trees on or adjacent to the appeal site are not protected by a Tree Preservation Order. There are trees around the boundaries of the site, which are either in the appeal site itself or on neighbouring land. The submitted information indicates that five of the trees on the site would be removed and another two would require work to facilitate the development. The trees are classed as having limited long term value.
17. There would be limited space for new planting although an appropriate landscaping scheme could secure some replacement planting. Those trees that

⁵ Ministry of Housing, Communities and Local Government Technical housing standards – nationally described space standards. Published 27 March 2015 (as amended).

⁶ Watford Borough Council Houses in Multiple Occupation (HMO) Amenity & Space Guidance to Landlords. This document is undated and it is not clear as to its status.

⁷ Watford Borough Council Watford District Plan 2000 Written Statement, Adopted 2003.

were to be retained could be protected during construction. Whilst I do not consider that the trees that would be affected by this proposal are not particularly notable specimens, they add to the sense of space and greenery in an otherwise hard urban area. The scale of the development would allow only limited mitigation but I do not consider that the effect on the trees is a deciding factor in my assessment of this proposal. It does however, emphasise the overdevelopment of the site generally.

Other Matters

18. The Council has a shortfall in its supply of land for housing and the most recent statistics⁸ indicate that to make up for this shortfall there is a presumption in favour of development.
19. The proposed new build would intensify the built development on the appeal site creating a denser and more developed form. However, it would also provide three new units of accommodation associated with the HMO refurbishment. In total this would provide 25 upgraded HMO's and three two bedroom living units within the urban area. The site is close to the Town Centre and therefore would be in a sustainable location.
20. The Council has approved a scheme for the refurbishment of the HMO but the appellant claims that financially the overall scheme is only viable with the additional three units proposed as part of this scheme. I have no evidence to support or refute this but it is not unreasonable to assume that there is some merit in the argument put forward by the appellant. This would mean that the overall scheme would see the improvement of the HMO and the provision of 25 units (although numerically this is less than the 27 available now) and the provision of three two-bedroom units of accommodation. Despite the lesser number of rooms in the HMO, I consider that this amounts to a positive contribution towards housing provision in the Borough.

Conclusion

21. I have found that the proposal would not have a harmful effect on the living conditions of existing or future occupiers of the proposed development or on those occupying neighbouring properties. I have also found that although the proposal would result in the loss of trees, mitigation could go some way to address this loss, although this would be limited. Most significantly I have found that the scale of the development would result in harm to the character and appearance of the area through excessive new build creating an overly intense development together with the HMO's. This would conflict with the policies referred to above and therefore carries significant weight.
22. The shortage of housing in the Borough is a material consideration and I am mindful of the presumption in favour of development due to this shortfall. However, whilst the total scheme would see 25 improved HMO's and three new residential units, the refurbishment of the HMO's has been approved already. The three new proposed units are different in character to the HMO and the Framework indicates that small and medium sized developments can contribute to the overall supply of housing required within an area.
23. However, I do not consider that the contribution to the supply of housing in the Borough of three dwelling units would overcome the harm I have identified to

⁸ As set out in the Housing Delivery Test: 2021 measurement.

the character and appearance of the area. Whilst I accept that the total scheme including the improved HMO's would make a more notable contribution I have no evidence that the refurbishment work cannot go ahead unless the three units are allowed. In the absence of convincing evidence, the contribution to housing supply in the Borough carries only modest weight.

24. I have considered all other matters raised but none alter my conclusion. I conclude that the proposal would have a harmful effect on the character and appearance of the area, in conflict with policies SS 1 and UD 1 and the Framework. This carries significant weight. The effect on trees adds to my concern but is not a determining factor alone and the effect of the proposal on the living condition of either existing or proposed occupiers of neighbouring or the proposed development does not cause me undue concern. Whilst the lack of housing land supply in the Borough and the recognised shortfall in delivering new housing, carries modest weight, for the reasons outlined, this does not overcome the harm I have identified to the character and appearance of the area. The appeal therefore fails.

J D Clark

INSPECTOR