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## Appeal Decision

Site visit made on 11 October 2022

**by H Wilkinson BSc (Hons) MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 11 November 2022**

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**Appeal Ref: APP/N1920/W/21/3289551**

**Land Rear Of 239 Mutton Lane, Potters Bar, Hertfordshire EN6 2AS**

- 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 Charles Bettes of GPAD against the decision of Hertsmere Borough Council.
  - The application Ref 21/1278/FUL, dated 16 June 2021, was refused by notice dated 12 November 2021.
  - The development proposed is described as the development of a two-bed dwellinghouse with associated access and amenity space to the rear of 239 Mutton Lane, Potters Bar.
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### Decision

1. The appeal is allowed and planning permission is granted for the development of a two-bed dwellinghouse with associated access and amenity space on land to the rear of 239 Mutton Lane, Potters Bar, Hertfordshire, EN6 2AS in accordance with the terms of the application, Ref 21/1278/FUL, dated 16 June 2021, subject to the conditions set out in the schedule to this decision.

### Main Issues

2. The main issues are;
  - the effect of the proposed development on the character and appearance of the area;
  - whether the proposed development would provide satisfactory living conditions for the future occupiers, with particular regard to outlook; and,
  - the effect of the proposed development on the living conditions of the occupants of 239 Mutton Lane and Manor Court.

### Reasons

#### *Character and Appearance*

3. The appeal site is located close to the Town Centre area and comprises a vacant, L-shaped plot of land located to the rear of 239 Mutton Lane. The surrounding area is predominantly characterised by semi-detached properties, most of which occupy generous sized plots and feature linear rear gardens. Nevertheless, the built form of the area in which the appeal proposal would be appreciated varies in respect of plot size, siting, orientation and building height. Together with the diverse land use, the above characteristics provide the surrounding area with a varied urban character and appearance.

4. Although the resistance to tandem development is understandable in areas where there are uniform patterns of development, I did not observe such regularity in the area surrounding the appeal site. Indeed, nearby buildings including the Wylllyotts Theatre, the Church of Our Lady & St Vincent and garages associated with the adjacent Manor Court development are located to the rear of existing buildings meaning that the more regular building pattern further along Mutton Lane is disrupted in this area. Furthermore, whilst smaller in size than the semi-detached properties which lie outside of the Town Centre area, the size of the plot and garden is generally in keeping with the urban pattern of development surrounding the site. Accordingly, I find that the proposal would not read as an incongruous or cramped form of development.
5. It is acknowledged that the pattern of fenestration on the front elevation of the proposed dwelling would result in a largely blank ground floor elevation. That said, the inclusion of a high-level window and use of contrasting materials adds interest to this elevation. Although of a more simplistic form and non-symmetrical layout, the window proportions would be largely in keeping with the flatted development adjacent to the site and would therefore compliment the local vernacular, whilst reflecting the more contemporary style and design of the proposed dwelling. Moreover, given the limited visibility of the front elevation and varied appearance of the area, I am satisfied that the new house would not read as a visually obtrusive or discordant form of development.
6. For the reasons outlined above, I find that the proposed development would not harm the character and appearance of the surrounding area. The proposal therefore accords with Policy CS22 of the Hertsmere Core Strategy 2013 and Policies SADM3 and SADM30 of the Hertsmere Local Plan Site Allocations and Development Management Policies Plan (SADM) 2016. Amongst other aspects, these policies collectively seek to ensure that development proposals are of a high-quality design, complement the local character and positively contribute to the built environment. I also find the proposal to be consistent with the design objectives of the SPD and National Planning Policy Framework (the Framework).

*Living conditions for the future occupiers*

7. The proposed side garden would measure approximately 25 square metres and would be enclosed by a brick wall measuring 2 metres in height. The elevation overlooking the garden area would be largely glazed whilst high level windows feature in the south elevation would provide the internal living space with sufficient daylight. The height of the brick wall is not uncommon of a residential boundary and, whilst this would be located within 5 metres of the dwelling, occupants would have partial views over the boundary walls whilst the high-level windows would provide views of the sky from the internal living area. In the short term, it is acknowledged that the brick wall may provide a bland outlook, however the planting of suitable landscaping would provide sufficient scope to soften the effect of this in the longer term. For these reasons, I am satisfied that a reasonable outlook would be provided.
8. Consequently, I do not find that the proposed development would provide unsatisfactory living conditions for future occupiers. The proposal therefore accords with Policy SADM30 of the SADM. Amongst other aspects, this policy seeks to secure high quality design which has limited impact on the amenity of occupiers of the site in terms of outlook. The proposal is also consistent with

the design objectives detailed within the SPD and the Framework, which seek to ensure high quality design and layout which safeguards appropriate living conditions.

*Living conditions of the occupants of 239 Mutton Lane and Manor Court*

9. The Design and Access Statement indicates a distance of approximately 16 metres between the front elevation of the proposed dwelling and the rear elevation of No 239 and Manor Court. The proposed plans indicate that the larger first floor window (Bedroom 01) would overlook the void between the buildings and that internal louvres would be installed. Although not critical to mitigating harm, it is considered likely that future occupiers would be inclined to make use of the internal louvres in order to safeguard their own privacy thus providing mutual benefit. Whilst having regard to the representations made by local residents on this issue, given the urban context, the position of windows, the viewing angles and respective ground levels, I am satisfied that the living conditions of the occupants of No 239 and Manor Court would not be adversely affected by reasons of overlooking or sense of enclosure.
10. I find that the proposed development would not adversely affect the living conditions of the occupants of 239 Mutton Lane and Manor Court in accordance with Policy SADM30 of the SADM. Amongst other objectives, this policy seeks to ensure that proposals have limited impact on the amenity of its neighbours, in terms of outlook, privacy, light, nuisance and pollution. The proposal is also consistent with the Framework in this respect.

**Other Matters**

11. Issues relating to parking provision and impact on trees have been drawn to my attention together with a number of civil matters. These issues are largely identified and considered within the Council's delegated report and it is noted that the Council did not consider these were reasons to refuse the application. I have been provided with no substantive evidence which would prompt me to disagree with the Council's conclusions on these matters. As such, whilst having regard to the concerns expressed by local residents, I give these factors limited weight.
12. The Council's delegated report alleges a breach of condition in relation to the neighbouring development at No 239, granted under planning reference 15/0139/VOC. More specifically, it is understood that the area of land subject to this appeal was identified as a parking area for the neighbouring flats however this has not implemented on site. Whilst acknowledging the above, I am satisfied that the outcome of this appeal would not prejudice the Council's ability to enforce the relevant condition(s) should this be considered appropriate. In any case, this has no bearing on my considerations of the merit of the appeal proposal.

**Conditions**

13. I have had regard to the various planning conditions suggested by the Council and have considered them against the tests in the Framework and the advice in the Planning Practice Guidance. I have made such amendments as necessary to comply with those documents and for clarity and consistency.
14. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved

plans in the interests of certainty. In the interests of highway safety, a condition requiring the submission of a Construction Method Statement (CMS) is imposed. In the absence of any evidence to indicate that construction activities would be controlled by separate legislation, I consider this both necessary and relevant to planning. Nevertheless, as the condition provides sufficient scope to secure appropriate measures, the requirement for the CMS to include standards as set out in the Highway Authority's template is not required. For the same reason, a condition requiring the provision of the approved access and parking area is necessary.

15. A landscaping condition is necessary to ensure that the site is appropriately landscaped in the interests of the character and appearance of the area whilst also providing for a softer and more attractive outlook for future occupiers. However, it has not been demonstrated that this is required prior to the commencement of development. A condition requiring samples of the materials to be used in the construction of external surfaces is required in the interests of the character and appearance of the area. For the same reason, a condition requiring the implementation of the boundary treatments prior to first occupation is necessary. To protect the living conditions of adjoining occupiers, a condition relating to obscure glazing is necessary.

### **Conclusion**

16. For the reasons outlined above, having regard to the development plan as a whole and all other relevant material considerations, including the Framework, the appeal is allowed.

*H Wilkinson*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

1. The development hereby permitted shall be begun before the expiration of three year from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans;

Drawing No. 699-10-010 Rev P1 – Proposed Site Plan  
Drawing No. 699-10-011 Rev.PI – Proposed Site and Block Plan  
Drawing No. 699-1—300-P1 – Proposed North Elevation  
Drawing No. 699-10-301-PI – Proposed East Elevation  
Drawing No. 699-10-302-P1 – Proposed South Elevation  
Drawing No. 699-10-303 P1 – Proposed West Elevation  
Drawing No. 699-10-200-P1 – Proposed Sections  
Drawing No. 699-1—100-P1 – Proposed Ground Floor Plan  
Drawing No. 699-10-101-P1 – Proposed First Floor Plan  
Drawing No. 699-10-102-P1 – Proposed Roof Floor Plan

3. No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for;
  - a. Construction vehicle numbers, type, routing;
  - b. Access arrangements to the site;
  - c. Traffic management requirements;
  - d. Construction and storage compounds (including areas designated for car parking, loading/unloading and turning areas);
  - e. Siting and details of wheel washing facilities;
  - f. Cleaning of site entrances, site tracks and the adjacent public highway;
  - g. Timing of construction activities (including delivery times and removal of waste) and avoid school pick up/drop off times;
  - h. Provision of sufficient on-site parking prior to the commencement of construction activities;
  - i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
  - j. Where works cannot be contained wholly within the site, a plan shall be submitted showing the site layout on the highway including the extent of hoarding, pedestrian routes and remaining width for vehicle movements;
  - k. Phasing plan

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

4. No development shall take place above slab level until a scheme of landscaping including an implementation and management strategy has been submitted to and approved in writing by the Local Planning Authority. The Landscaping scheme shall include details of hard and soft landscaping, including any tree removal/retention, planting plans, written specifications (including cultivation and other operations associated with tree, shrub, and

hedge or grass establishment), schedules of plants, noting species, plant sizes and proposed numbers/densities. The development shall thereafter be undertaken strictly in accordance with the details so approved.

Any trees shrubs or plants planted in accordance with this condition which are removed, die or become damaged or become diseased within five years of planting shall be replaced within the next planting season by trees, and shrubs of the same size and species.

5. No development shall take place above slab level until samples of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved samples.
6. Prior to the first occupation of the development, the brick wall as shown on drawing no. 699-10-010 Rev P1 shall be erected as approved and shall thereafter be permanently retained.
7. Prior to first occupation, the bathroom window (Bedroom 02) as shown on drawing no. 699-10-101-P1 shall be fitted with obscure glass (to Pilkington Level 3 or equivalent) and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The window shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.
8. Prior to the first occupation of the development the access and parking areas shown on the approved plans shall be completed and thereafter permanently retained for parking and manoeuvring purposes.

## **END OF SCHEDULE**