



Appeal Decision

Site visit made on 20 December 2022

by Hannah Ellison BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 January 2023

Appeal Ref: APP/M0655/W/22/3306025

43 Lovely Lane, Warrington WA5 1LZ

- 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 E Fairclough against the decision of Warrington Borough Council.
 - The application Ref 2022/41353, dated 11 March 2022, was refused by notice dated 29 July 2022.
 - The development proposed is described as 'Retail premises to be retained. Existing flat over to be retained. Proposed building of 2 no. flats'.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The description of development above is taken from the planning application form. However, a more accurate description is that provided in the decision notice and the appeal form as 'The demolition of existing single storey building, proposed two storey side extension and a two storey rear extension to form 2 no. dwellings'. I have determined this appeal accordingly.

Main Issues

3. The main issues are a) whether satisfactory living conditions would be provided for future occupiers, with particular regard to internal space, outlook and privacy, b) the effect of the proposal on the character and appearance of the area, and c) the effect on the living conditions of neighbouring occupiers, with particular regard to outlook and privacy.

Reasons

Living conditions of future occupiers

4. The Council has raised concern that the proposed dwelling to the rear would be a two bedroom unit and that one of the bedrooms would only be served by a roof light, thus failing to provide an outlook for future occupiers. However, the planning application form describes the development as being for 2 one bedroom units and the submitted plans note that the concerned room is a study. Therefore, whilst it would not have an outlook, there would be sufficient light reaching this room and the nature of its use ensures the lack of outlook would not harm the living conditions of future occupiers.
5. I also note the Council's concerns that the internal space of the proposed dwelling to the rear would fail to meet the Nationally Described Space

Standards (NDSS). I note that the dwelling would fall short of the requirement for both a 1 and 2 bedroom unit. However, I have not been made aware of any development plan policies which require compliance with the NDSS.

6. Nevertheless, the only outlook from the ground floor habitable rooms of the proposed dwelling to the rear would be out across the rear yard, as these rooms would be single aspect. The yard would remain enclosed by the existing high boundary wall, and the distance between the windows and wall opposite would be very limited. It would therefore feel extremely enclosed and overbearing and thus would result in a very poor outlook for future occupiers.
7. The proposed dwellings would have ground floor habitable room windows directly facing into the rear yard. These dwellings, along with the existing retail premises and residential unit above, would all have access to the rear yard, however there would be a lack of clearly defined space for each unit. It is therefore unclear how the space would be utilised by all and thus the proposal has the potential to create issues in terms of privacy for future occupiers.
8. Consequently, the proposal would fail to provide satisfactory living conditions for future occupiers, with particular regard to outlook and privacy, and thus would fail to accord with Policies CS1, QE6 and QE7 of the Local Plan Core Strategy (July 2014) (the CS) which collectively aim to ensure that developments do not harm residential amenity. It would also fail to accord with the National Planning Policy Framework (the Framework) which seeks to create places that promote health and well-being, with a high standard of amenity for existing and future users.

Character and appearance

9. The proposed two storey rear extension would have a significant projection into the rear yard. Given the site's corner location, the development would be readily apparent from public vantage points. However, the site is of a very generous width and depth thus the resultant scale and mass of the building would be commensurate with its large plot.
10. Several neighbouring buildings have also been developed out towards their rear boundaries, at varying heights and designs. Whilst the original outriggers of properties along the host terrace are evident, their prominence has been somewhat diluted by the presence of various extensions. As such, the proposed development would not appear as an incongruous feature or overly dominant addition within this part of the street scene.
11. Accordingly, the proposal would not harm the character and appearance of the area and it would accord with Policies CS1, QE6 and QE7 of the CS which seeks to ensure that developments are of a high quality design and harmonise with the scale and proportions of the surrounding area. It would also accord with the Framework which aims for developments which are sympathetic to local character.
12. Policy SN1 of the CS has also been referred to within the Council's reason for refusal however it is not of direct relevance to this main issue.

Living conditions of existing occupiers

13. The proposed development includes windows on the side elevation of the first floor which would be within close proximity to first floor windows on the side

elevation of 45 Lovely Lane. The main parties disagree as to the exact separation distance involved.

14. Nevertheless, the first floor side windows in the proposed development would serve bedrooms, a shower room and a landing. The latter two are not habitable rooms and it is unlikely that future residents would spend considerable lengths of time in the bedrooms or use these windows as their main source of outlook. Moreover, the outlook would be across Percy Street thus a relaxation of the minimum requirements would be appropriate. In this case, even taking the Council's lesser figure into consideration, the shortfall is negligible.
15. The proposed development would also extend a considerable distance beyond the two storey rear outrigger of 41 Lovely Lane. However, the adjoining elevation contains no windows and the main windows on the rear elevation are a considerable distance away. Furthermore, the rear yard of No 41 and No 39 already appear to be dominated by the existing surrounding built form.
16. Accordingly, the proposal would not harm the outlook or privacy of neighbouring occupiers and thus it would accord with Policies CS1, QE6 and QE7 of the CS which seek to safeguard the amenity of neighbouring residents. It would also accord with the similar aims of the Framework.

Planning Balance

17. The Council has advised that it cannot currently demonstrate a five year housing land supply. The exact shortfall has not been identified. Nevertheless, in this instance, paragraph 11 (d)(ii) of the Framework (the "tilted balance") is engaged.
18. The proposal conflicts with Policies CS1, QE6 and QE7 of the CS, which are consistent with the Framework in so far as they require developments to ensure the living conditions of future occupiers would be satisfactory. I therefore apportion substantial weight to the harm identified in this respect.
19. The Framework seeks to boost the supply of housing and this proposal would contribute to the Council's housing stock, however the addition of two dwellings would only make a very small contribution. It would also provide some minor economic benefits during construction and on subsequent occupation. Collectively, I afford only limited weight to the benefits of the proposal due to its small scale.
20. The adverse impacts of the development would therefore significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the presumption in favour of sustainable development does not apply in this instance.

Conclusion

21. Whilst I have found no harm in respect of the character and appearance of the area and the living conditions of neighbouring occupiers, my conclusion on the first main issue brings the proposal into conflict with the development plan as a whole. There are no other considerations, including the Framework, which outweigh this finding. Therefore, the appeal should be dismissed.

H Ellison
INSPECTOR