



Appeal Decision

Site visit made on 25 January 2023

by S Lo LLB M.SRA

an Inspector appointed by the Secretary of State

Decision date: 24th April 2023

Appeal Ref: APP/Y1945/W/22/3307037

167 Leavesden Road, Watford, Hertfordshire WD24 5EP

- 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 S Mann against the decision of the Watford Borough Council.
 - The application Ref 22/00748/FUL, dated 6 June 2022, was refused by notice dated 15 July 2022.
 - The development proposed is the conversion of existing dwelling in to two self contained flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. It has been brought to my attention that the Watford Local Plan 2021-2038 (the Local Plan) was adopted in October 2022. The main parties have had the opportunity to provide comments regarding the relevance of this to the outcome of the appeal.

Main Issues

3. The main issues are:
 - The effect of the proposed development upon the living conditions of future occupiers of the proposed upper floor flat, having particular regard to the availability of private outdoor space;
 - Whether or not satisfactory arrangements for the storage and collection of waste have been demonstrated; and
 - The effect upon on-street parking in the area.

Reasons

Living Conditions of future occupants - private outdoor space

4. Policy HO3.11 of the Local Plan indicates that, where shared private amenity space is not proposed, all new 2-bedroom apartments should be provided with a minimum of 7 square metres of private outdoor amenity space. The future occupiers of the 2 bed flat on the upper floors of the appeal property would not have access to private outdoor amenity space. Instead, whilst a small area of shared space for the purposes of bin and cycle storage would be provided, the future occupiers of the flat on the ground floor would otherwise have dedicated access to the remaining area of private outdoor amenity space.

5. While Callowland Recreation Ground is within close walking distance to the appeal site, it would not adequately function as a practical substitute for private amenity space. There would be no privacy available for any recreational or functional domestic activities. Additionally, it would be inappropriate for public land to be used as private land, with accompanying domestic paraphernalia. It would also be inappropriate for the communal front garden to be used as a substitute private amenity space for the upper floor flat. It is insufficiently large for practical use, and it would not function as a genuinely private space, due to its location immediately adjacent to the highway.
6. The appellant has referred to a successful appeal decision for the subdivision of 169 Leavesden Road in the interests of justifying the proposed development's lack of private outdoor space. However, I must consider the proposal before me on its own merits, and in the context of the current policy regime which requires all new homes to provide a minimum amount of private outdoor amenity space for future occupiers. Whilst other properties in the area may have been subdivided in a similar manner to the proposed development, this does not undermine the requirement for the appeal scheme to provide access to private outdoor space to future occupiers for health and wellbeing purposes. Additionally, the appeal decision referred was determined in 2008. A significant period of time has since passed during which significant changes to planning policy have occurred. Therefore, whilst it is my understanding that certain private amenity space requirements would have been applicable at that time, the 2008 appeal decision is of limited relevance and does not justify the omission of private outdoor space for the upper floor flat in the proposed development.
7. In conclusion, the appeal scheme would not provide access to any suitable form of private outdoor space for the future occupiers of the upper floor flat, which would result in unacceptable living conditions. Therefore, the proposal would not comply with the requirement for all new homes to be provided with private outdoor amenity space, contrary to Policy HO3.11 of the Local Plan. For the same reason, the proposed development would fail to conform with the policies relating to achieving well-designed places set out in section 12 of the National Planning Policy Framework (July 2021) (the Framework), specifically engaging paragraph 130 thereof, which promotes health and wellbeing.
8. Although it remains extant, I give limited weight to the private garden space standards set out in the Watford Residential Design Guide (2016) (the DG), given that the DG is older than the Local Plan. Nevertheless, as the proposed development would not provide any outdoor amenity space to the upper floor flat, the scheme would also not comply with the DG.

Waste storage and collection

9. A bin and cycle storage area would be available for both flats and located adjacent to an existing outbuilding to the rear. The appellant does not disagree with the Council's assessment that there would be a pulling distance of 58 metres to the front of the appeal site, where bins would be collected.
10. The appellant has referred to the waste arrangements at 169 Leavesden Road as being similar in terms of distance. However, I am not aware of the particular circumstances of that property, and in any event, I must consider the appeal scheme on its own merits. The distance of 58 metres is a considerable amount and therefore, the intended arrangements may not constitute a practical

arrangement for future occupiers. Nonetheless, the occupiers of various properties in the local area use their respective front gardens to store their bins. Indeed, it is common practice for the occupiers of many properties on Leavesden Road and Acme Road to store their waste to the front, rather than locating them to the rear. Accordingly, if bins were to be stored to the front at the appeal site, this would reflect the existing practice of the area. It is also relevant that only two self-contained flats are proposed, thus limiting the potential for a high number of receptacles to be stored in this location.

11. I therefore conclude that satisfactory arrangements for the storage and collection of waste have been demonstrated. The proposal therefore complies with the criteria for all new developments to be designed so they are effective and attractive, in compliance with Policy QD6.4 of the Local Plan and the guidance set out at paragraphs 7.3.26 - 7.3.27 of the DG.

Parking

12. The appeal site is located in a Controlled Parking Zone where there is high demand for on-street parking. As the existing property is entitled to 2 parking permits, in order to ensure the proposed development does not create extra demand for on-street parking to the potential detriment of highway safety, the appellant is required to ensure that the parking permit entitlement is limited to 1 permit per flat. It is understood that the Council and the appellant are willing to engage with one another to complete a unilateral undertaking to secure this arrangement.
13. The appellant does not dispute the need for this parking restriction and I do not doubt the appellant's willingness to provide a unilateral undertaking. However, no unilateral undertaking has been submitted. Thus, in the absence of an appropriate mechanism to restrict parking permit entitlements, the proposed development would, through increasing demand, have an unacceptable effect upon on-street parking in the area contrary to Policy ST11.5 of the Local Plan, insofar as this policy and its supporting text indicates that new developments in controlled parking zones should not increase parking demand. For the avoidance of doubt, Policy ST11.4, which relates to walking and cycling infrastructure, is of limited relevance to this main issue.

Planning Balance

14. The Council has accepted that the most recent Housing Delivery Test results show that the delivery of housing was substantially below the relevant housing requirement over the previous three years. As such, the most important policies for determining the proposal are deemed out-of-date and the presumption in favour of sustainable development is engaged. For decision making this means that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the Framework's policies taken as a whole.
15. The provision of one additional unit of residential accommodation would make an effective use of land and a small contribution to the Borough's housing supply. In the context of recent levels of housing delivery locally, these benefits of the scheme attract moderate weight. Further, the proposal, once occupied, would provide some additional support to the local economy and local community facilities. However, such benefits are limited due to the scale of development under consideration. As such, the scheme's benefits, considered

cumulatively, are significantly and demonstrably outweighed by the harms the development would cause to the living conditions of the future occupiers of the upper floor flat and by virtue of the absence of a mechanism to ensure that on-street parking is appropriately controlled. Therefore, the presumption in favour of sustainable development does not apply. The scheme conflicts with the development plan when read as a whole, and other material considerations, including the Framework, do not lead me to a decision otherwise.

Conclusion

16. Whilst I have found above that there would be satisfactory arrangements for the storage and collection of waste, I have identified harm in the context of inadequate access being provided to private outdoor space for the future occupants of the upper floor flat and by virtue of an unacceptable effect upon on-street car parking in the area. These harms are the overriding considerations in this case.
17. For the reasons given above, I conclude that the appeal should be dismissed.

S Lo

INSPECTOR