
Appeal Decision

Site visit made on 25 May 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

an Inspector appointed by the Secretary of State

Decision date: 19 June 2023

Appeal Ref: APP/B1930/W/22/3310641

Park Street Plumbing & Heating Supplies, Park Street, St. Albans AL2 2PY

- 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 Fretten against the decision of St Albans City & District Council.
 - The application Ref 5/22/1646, dated 29 June 2022, was refused by notice dated 15 September 2022.
 - The development proposed is the demolition of an existing commercial unit and construction of single storey one bedroom dwelling with private garden.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed development on the living conditions of future occupants with particular regard to noise, disturbance and privacy.
 - Whether the proposed development would unacceptably add to parking pressure in the locality and the effect on highway safety and the free movement of traffic.

Reasons

The appeal site context and proposed development

3. The appeal site is located approximately midway along an access track (Park Gate) which connects Park Street to the east with the Park Street Community Hall to the west. Park Gate is a surfaced track with space for car parking on either side. An existing single storey commercial building with a small hardstanding currently occupies the appeal site and appears to be used by a "plumbers' merchant". The site is located within the Park Street Conservation Area.
4. Properties to the east of the appeal site, and on the northern side of the access off Park Street, comprise 2 storey terraced properties that do not appear to have off-road parking facilities. A two-storey apartment block is located on the southern side off the access. Signage suggests that the southern side of Park Gate is dedicated for use as private parking associated with the apartment block.

5. Car parking also occurs on the northern side of Park Gate to the east of the appeal site. There are several signs that suggest that part of this area is dedicated parking for customers of the plumbers' merchant. Although there were no vehicles parked in the area subject to this signage at the time of my site visit, I have no evidence to indicate whether this area on the northern side of Park Gate is within the control of the Appellant or whether any private parking restrictions are applicable. A small garage is located immediately to the east of the appeal site and is also accessed off Park Gate. However, at the time of my site visit this garage appeared to be used as a storage facility associated with the commercial premises and, similarly, I have no evidence to indicate whether this is in the control of the Appellant.
6. The proposed development would involve the demolition of the existing commercial property and the construction of a single storey, pitched roofed, one bedroom dwelling that would have a modest garden area to the west of the proposed building. The proposal does not include any on-site car parking provision. Furthermore, I do not have any evidence to suggest that any dedicated off-road parking provision would be available to serve the development.
7. The Council is unable to demonstrate an up-to date 5-year housing land supply. Consequently, the proposal would make a modest contribution to housing supply in the district.

Living conditions

8. Although most of the proposed windows of the dwelling would have outward views over the curtilage of the development, the proposed single aspect bedroom window would face directly on to Park Gate and, in particular, the northern side of the existing parking area, with no intervening defensible space. In addition, the window would be located in close proximity of the existing single garage located to the east of the appeal site.
9. In my view, a degree of vehicular manoeuvring associated with the parking of vehicles on Park Gate would likely occur in close proximity of the bedroom window. This would result in noise and general disturbance being experienced by the occupants of the bedroom. Pedestrians using Park Gate would have unrestricted views of the bedroom window with a resultant unacceptable loss of privacy. In addition, the occupants would likely suffer more general disturbance as a consequence of car headlights shining into the bedroom window associated with vehicles accessing Park Gate from Park Street.
10. I have taken into account the Appellant's view that the position of the proposed bedroom window is in keeping with the character of the local area as it is contended that nearby properties at Nos 1- 4 Park Street and Station Terrace have windows facing directly on to the street. However, the Council contends that the windows of properties at Nos 1 – 4 Park Street are secondary windows and I have no evidence to indicate otherwise. In addition, it was apparent at my site visit that the windows of the properties mentioned have a predominantly parallel arrangement with Park Street as opposed to the proposed single aspect bedroom window which would face directly down Park Gate. Consequently, I do not consider that the ground floor window arrangement of other nearby properties is generally comparable with the appeal proposal. I have therefore determined the appeal proposal on its own individual planning merits.

11. Taking the above factors into account, the proposed development would result in an unacceptable impact on the living conditions of the occupants of the dwelling as a consequence of a loss of privacy and general disturbance due to the position of the proposed bedroom window with Park Gate. The proposal would therefore be contrary to Policies 69 and 70 of the St Albans District Plan, City and District of St Albans Local Plan Review (1994) (the Local Plan). These policies, amongst other things, require new development to have a high standard of design and appropriate defensible space that provides a tolerable level of security and privacy. As such, land adjacent to windows of habitable rooms at ground floor level should normally be a minimum of 3 metres from areas to which the public has access.

Parking provision

12. Policies 39 and 40 of the Local Plan collectively seek to ensure that a one bedroom dwelling is provided with one car parking space. Policy S5 of the St Stephens Neighbourhood Plan (the Neighbourhood Plan) requires development to provide adequate off-street car parking for residents and visitors, in accordance with the Council's parking standards. As set out above, the proposed scheme does not provide for any on-site parking and would thus technically conflict with the provisions of these policies.
13. I observed at my site visit that the area in the vicinity of the appeal site suffers a significant amount of parking stress, primarily associated with the high density nature of the local terraced housing having very limited on-plot parking facilities and the limited number of on-road parking bays and facilities. Parking does occur on the northern side of Park Gate. Whilst I have no evidence to indicate that space would be available and dedicated to serve the appeal proposal, I also have no evidence to suggest that there are any restrictions that would prohibit a vehicle associated with the proposed development from parking there.
14. Hertfordshire County Council, in its capacity as highway authority, raised no objections to the proposed development. The highway authority did not identify any highway safety concerns but did advise the Council to review the adequacy of parking provision.
15. In this regard, the Council has drawn my attention to a recent appeal decision for the creation of a two-bedroom dwelling at No. 1 Station Terrace, Park Street, located in relatively close proximity to the appeal site (Ref: APP/B1930/W/20/3252481) and which also proposed no on-site parking provision. In that case, the proposal would have required the provision of a minimum of two car parking spaces. The Inspector found that there was no evidence to indicate that a car free scheme would be acceptable in this location.
16. Conversely, the Appellant has drawn my attention to a planning application approved by the Council for the construction of new dwellings in the vicinity of the appeal site (Ref: 5/2019/0986) which considered that the car free element of that proposal would be acceptable. I do not have the full details of these cases to indicate the planning considerations that led the respective decision makers to a contrary view of development in the vicinity with regard to parking provision. Consequently, I have attached little weight to these decisions but, nonetheless, in my view, they do demonstrate that car parking considerations in this location are a matter of finely balanced judgement.

17. I have considered the advice provided in Chapter 9 of the National Planning Policy Framework (the Framework) and, in particular, that the accessibility of the development, availability of public transport and local car ownership levels should be taken into account when considering local parking standards. In my view, the location of the appeal site is relatively sustainable with bus routes passing nearby and Park Street Station, public amenities, shops and schools a short walk away.
18. The local area does clearly suffer from a degree of parking stress but it is clear that there is some degree of parking available on the northern side of Park Gate. Although, finely balanced, given the sustainable location and the one-bedroom nature of the proposal, I consider that the car free element of the scheme, in this case, would be acceptable and would not have a sufficiently adverse impact in terms of car parking within the locality to warrant the dismissal of this appeal on the grounds of a lack of parking provision.
19. On this basis, I do not consider that the proposed development would be significantly different to the salient character of the surrounding area in respect of parking provision. Furthermore, taking into account paragraph 111 of the Framework, I have no compelling evidence to suggest that the proposal would have an unacceptable impact on highway safety.
20. There would be a degree of conflict with Policies 39 and 40 of the Local Plan and Policy S5 of the Neighbourhood Plan. However, taking into account the sustainable location of the appeal site and the advice provided in Chapter 9 of the Framework, I do not consider that the aforementioned conflict would be of an extent to warrant the dismissal of the appeal scheme.

Other matters

21. The appeal site is located within the Park Street Conservation Area. Although the Council has raised no concerns regarding the impact of the proposed development on this designated heritage asset, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such asset. In applying the statutory test as set out in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 I have had regard to the desirability of preserving or enhancing the designated heritage asset.
22. The Council's Officer Report identifies that the proposed development would be in keeping with the character and appearance of the existing building and the Conservation Area and street scene. I concur with this view and consider that the proposal would have a neutral effect on the character and appearance of the Conservation Area. Consequently, there would be no conflict with Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 nor the provisions of Chapter 16 of the Framework.
23. I recognise the frustrations that the Appellant has identified in attempts to constructively engage with the Council during its consideration of the application. However, these are not matters that are relevant to my consideration of the planning merits of the appeal scheme before me. Consequently, I have attached no weight to the chronology of the discussions provided by the Appellant.
24. I have also taken into account the Appellant's view that the site layout could be amended to incorporate a parking space and that revisions could also be made

to the internal layout to reposition the proposed study and bedroom. However, Annex M of the 'Procedural Guide: Planning Appeals – England' advises that: "If an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application. If an appeal is made the appeal process should not be used to evolve a scheme and it is important that what is considered by the Inspector is essentially what was considered by the local planning authority, and on which interested people's views were sought". Therefore, I have determined this appeal on the basis of the plans considered by the Council.

25. I have considered the concerns of nearby residents regarding potential overlooking of properties on Station Terrace and the potential for noise and disturbance associated with construction operations. Given the proposed siting of the dwelling and its single storey nature, I do not consider that the proposal would result in any material overlooking and appropriate boundary treatment could be secured via a planning condition. Similarly, an appropriate planning condition could be imposed to minimise the effect of construction activities on the living conditions of nearby residents.
26. The matters raised above by interested parties have been carefully considered but they do not alter the main issues which have been identified as the basis for the determination of this appeal, particularly in circumstances where the Council has not objected to the appeal scheme for these other reasons.

Planning Balance

27. I have found that the proposed development would have an unacceptable impact on the living conditions of the prospective occupants of the dwelling as a consequence of the position of the bedroom window. I consider that the car free element of the scheme, in this case, would be acceptable.
28. The Council is unable to demonstrate an up-to date 5-year housing land supply and consequently paragraph 11(d) of the Framework is engaged. Although the proposal would make a modest contribution to housing supply, I consider that the unacceptable effect of the proposed development on the living conditions of the prospective occupants would significantly and demonstrably outweigh the benefit that would occur to the contribution that would be made to housing land supply, when assessed against the policies in the Framework taken as a whole.

Conclusion

29. For the above reasons, taking into account the development plan as a whole based on the evidence before me and all other matters raised, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR