



Appeal Decision

Site visit made on 29 March 2023

by E Pickernell BSc MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 July 2023

Appeal Ref: APP/Y1945/W/22/3307098

Consort House, 60 Leavesden Road, Watford WD24 5DN

- 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 A Patel against the decision of Watford Borough Council.
 - The application Ref 22/00081/FUL, dated 20 January 2022, was refused by notice dated 17 March 2022.
 - The development proposed is 1 x 2 bed flat at front and 1 x 2 bed flat at rear.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the description of development from the application form removing elements that are not acts of development.
3. The appeal property has already been converted to flats, however I have determined the appeal on the basis of the development applied for and the submitted drawings. Planning permission has subsequently been granted for 2 no. 1 bedroom flats.
4. Since the determination of the application, the Watford Local Plan (LP) 2021 – 2038 has been adopted (October 2022). The policies in the new LP supersede policies from the Watford Local Plan Core Strategy 2006 – 2031, saved policies from the Watford District Plan 2000, and Watford's Residential Design Guide 2016. It is incumbent upon me to consider the most relevant and up to date information in reaching a decision. Both main parties have had the opportunity to comment on the implications of this for the appeal. I am satisfied that no interested party has been prejudiced by this approach.

Main Issues

5. The main issues are:
 - whether the development provides acceptable living conditions for its occupiers with regard to internal living space, daylight, outlook, noise and the provision of private garden space.
 - the effect of the development on parking and congestion; and
 - the effect of the development on the character and appearance of the area with reference to refuse and recycling facilities.

Reasons

Living conditions

6. The appeal site is in a primarily residential area although there are some commercial uses near to the site. The appeal property comprises part of a wedge-shaped building which fronts both Leavesden Road and Victoria Road. It was previously used as offices but has now been converted to 2 no. 2 bedroom flats, which are accessed via a shared front door from Leavesden Road.
7. Policy HO3.10 of the LP requires that all new homes meet or exceed the Nationally Described Space Standards (NDSS). The rear flat meets these requirements. The front flat has two bedrooms both exceeding 11.5 sqm which equates to 2 bed spaces per bedroom in terms of the NDSS, so that flat would be suitable for 4 people. The minimum gross internal floor area and storage for a 4 person, 1 storey dwelling is 70sqm. At 62.2 sqm the internal floor area of the front flat falls short of the requirements of the NDSS. Whilst the bedrooms are generous, the living space is small by comparison. It has several doors leading from it including the front door, which results in a cramped arrangement and awkward layout. Consequently, the front flat fails to provide an acceptable standard of accommodation with regard to internal space.
8. The living room/kitchen windows of both flats look into an internal courtyard bounded by painted walls, the rear flat also has a roof light serving the living area. The walls of the courtyard are sufficiently distant from the windows to allow adequate light to enter the building and to provide a satisfactory outlook, particularly as the other rooms in the flats have windows which look onto the street. As such the development provides adequate daylight and outlook for its occupiers.
9. In approving the subsequent planning application for 1 bedroom flats at the property, the Council found that the potential effect of the three remaining air conditioning units at the site was acceptable as the closest windows to the units serve kitchen areas. I see no reason to take a different view. As such the development provides acceptable living conditions with regard to noise.
10. Policy HO3.11 of the LP supports the provision of shared private outdoor amenity space. Garden space is provided within a shared courtyard area and access for occupants of the appeal property is available via a gate off Leavesden Road. The area is sufficient to accommodate garden furniture, planters and clothes drying space for residents. As such, both flats have sufficient garden space.
11. Overall, whilst the development is acceptable in respect of daylight, outlook, noise and garden space, the front flat fails to provide acceptable living conditions with regard to internal space. As such it conflicts with Policies HO3.10 of the LP which seeks to ensure that new dwellings meet or exceed the NDSS. It also conflicts with relevant policies of the National Planning Policy Framework (the Framework) which seek to ensure that developments create places with a high standard of amenity for existing and future occupiers.
12. Policy QD6.4 relates to new buildings and as such this policy has not been determinative in my consideration of this appeal.

Parking and congestion

13. The appeal property was previously used as office space which would have attracted parking demand from employees, visitors, and deliveries. There is no substantive evidence that its residential use results in a significant increase in demand for on-street parking. Furthermore, two parking spaces are provided for the flats, minimising the likelihood of residents parking on the street. Their retention for use by the occupiers of the properties could be secured by condition were I to allow the appeal.
14. Consequently, the development does not result in a harmful effect on parking and congestion in the area. As such it accords with Policy ST11.5 of the LP which seeks to secure appropriate levels of parking. It would also accord with the Framework which states that development should only be refused if there would be an unacceptable impact on highway safety or the residual cumulative impacts on the road network would be severe.

Character and appearance

15. A bin storage area is located adjacent to the front door which has sufficient space for the 4 bins that are required. There is no evidence that bins are being stored in an unsightly manner elsewhere. This arrangement has been found acceptable by the Council in determining the subsequent application and I see no reason to disagree.
16. As such the development does not harm the character and appearance of the area with reference to refuse and recycling facilities. It therefore accords with Policy QD6.4 of the LP in so far as it seeks to ensure that bin stores are carefully positioned, easy to use and attractive.

Other Matters

17. I recognise that the failure of this appeal could affect the living arrangements for the current occupants of the flats including children and an individual with health issues. I have had due regard to Articles 1 and 8 of the Human Rights Act 1998 (HRA), Article 3 of the United Nations Convention on the Rights of the Child and the Public Sector Equality Duty (PSED) under the Equality Act 2010. Disability and age are relevant protected characteristics to which the PSED applies. These rights are engaged in reaching my decision. However, they are qualified rights and interference may be justified where in the public interest. The concept of proportionality is key.
18. The front flat does not provide an acceptable standard of accommodation, therefore, to allow the appeal would not be in the best interests of the child, nor would it eliminate discrimination or promote equality of opportunity. I have had regard to the development plan policies and the Framework, which aim to provide a suitable standard of accommodation in the public interest.
19. I have found the rear flat to be acceptable. Furthermore, the subsequent planning consent allows for 2 no. 1 bedroom flats, each of which would provide 2 bed spaces. As such there are options available to the appellant including pursuing an alternative scheme which might allow all current residents to remain at the site. Therefore, the dismissal of the appeal would not unacceptably violate family rights under articles 1 and 8 of the HRA.

20. I have given consideration as to whether any conditions could be imposed to mitigate the harm identified, but the protection of the public interest cannot be achieved by means that are less interfering with the human rights of the appellant or flats occupants.

Planning Balance

21. The appellant contends that there is a housing shortfall in Watford. The Council have not confirmed whether they are able to demonstrate a 5 year supply of deliverable housing sites, nor is there any evidence of the level of any shortfall.
22. Set against the harm identified, the benefits of the development are the provision of two dwellings in an accessible location, which make a small contribution to the Council's housing land supply. The appeal site also provides accommodation for an individual with health issues and children. However, only one of the flats provides acceptable living conditions and as such overall, I attach moderate weight to the benefits of the development.
23. The Local Plan dates from 2022 and the policies are consistent with the Framework which expects development to create places with a high standard of amenity for existing and future users. The Framework also states that policies may make use of the NDSS, where the need for an internal space standard can be justified. Therefore, the conflict between the development and policy HO3.10 should be given significant weight in this appeal.
24. The development provides inadequate living conditions for occupiers of the front flat and as such is contrary to the policies referred to above and conflicts with the Framework taken as a whole. Even if the Council is unable to demonstrate a 5 year supply of deliverable housing sites and as a consequence paragraph 11d(ii) of the Framework is engaged, the adverse impacts of granting permission significantly and demonstrably outweigh the benefits. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

25. Whilst some aspects of the development are acceptable, the scheme fails to provide satisfactory living conditions for occupiers with regard to internal living space for the front flat. Therefore, I conclude that the development conflicts with the development plan as a whole and the Framework. There are no material considerations, that outweigh the harm identified.
26. Furthermore, I have had due regard to the HRA 1998, the Rights of the Child and the PSED set out under s149 of the Equality Act 2010. However, I conclude that it is proportionate and necessary to dismiss the appeal.

E Pickernell

INSPECTOR