



Appeal Decision

Site visit made on 3 October 2023

by A Caines BSc (Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th October 2023

Appeal Ref: APP/Y1945/W/23/3319381

209 Queens Road, Watford WD17 2QH

- 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 Ahmed against the decision of Watford Borough Council.
 - The application Ref 23/00013/FUL, dated 10 January 2023, was refused by notice dated 7 March 2023.
 - The development proposed is described as a new first floor dwelling unit.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the development would preserve or enhance the character or appearance of the Estcourt Conservation Area;
 - Whether the development would provide acceptable living conditions for its occupiers;
 - The effect on the living conditions of neighbouring occupiers of 207, 209A and 209B Queens Road; and
 - Whether the development complies with local policies relating to 'car free' housing.

Reasons

Conservation Area

3. The appeal site lies within the Estcourt Conservation Area (CA). In so far as it is relevant to this appeal, the CA draws some of its special interest and significance from strong small-scale streetscapes and a mixed-use character with a tight urban grain of terraced housing interspersed with small workshops and yards, as well as a wide variety of public houses, independent shops, and public buildings. The dominant urban form is traditional terraces of two-storey height with pitched roofs.
4. The appeal relates to a flat roofed, single-storey building that spans between 209A and 209B Queens Road, but fronts onto Orphanage Road. Both 209A and 209B are two-storey, pitched roof buildings with commercial uses at ground floor and flats above. The appeal building is in commercial use as a vehicle repair/tyre workshop with its flat roof used to store tyres behind a corrugated

metal barrier at the front and a wooden fence at the rear. The gap at first floor does offer some visual break, but there is no compelling evidence before me to suggest that it is of any particular importance to the significance of the CA. More significantly, the single-storey, flat roof form of the appeal building appears markedly at odds with the prevailing built character, and together with the unsightly roof barriers and tyre storage, does not, in my view, contribute positively to the significance of the CA.

5. The proposed new first floor dwelling would be set back from the front walls of the adjoining buildings by approximately 1.5 metres and would have a pitched roof which would respect the roof form of both adjoining buildings and as found in the wider surrounding area. Furthermore, the set back and lower ridge height would create a clear sense of visual subservience to 209A, such that 209A would remain the dominant corner marker on this side of the road. As such, I do not accept that the resultant roofscape would have a cluttered and discordant appearance, as suggested by the Council. Rather, the development would be suitably in keeping with the established built form and tight grain, reflecting the elements that contribute to the significance of the CA.
6. First floor balconies are not a characteristic feature, but neither are the flat roof and unsightly corrugated barrier that currently exists. The balcony would effectively make better use of an existing part of the building and would not project beyond the building frontage. Subject to appropriate design of the new balcony railings, I consider that there would be a visual improvement compared to the existing situation.
7. The arrangement of fenestration in the front elevation would include a set of glazed doors and two narrow high-level windows. The glazed doors would be vertically proportioned and would not be highly evident from the street. However, I do consider that the narrow high-level windows would appear unduly contrived and firmly at odds with the style and proportions of fenestration in the area. Nonetheless, as these would not be the primary source of light, outlook, and ventilation to the bedroom and living space, they could have been omitted from the drawings by a suitably worded planning condition if I had been minded to allow the appeal.
8. The Council states that the development would not enhance the appearance of the ground floor frontage. However, that part of the building does not form part of the development, and so, this should not count against the proposal.
9. I have taken into account that the nearby buildings at 1A St Johns Road and the Estcourt Arms are locally listed buildings, but in light of all the above, no harm would be caused to their setting and significance.
10. For all these reasons, I find that the proposal would preserve the character and appearance of the CA as a whole and there would be no harm to the significance of the CA. The proposal therefore complies with the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990; parts 12 and 16 of the National Planning Policy Framework (the Framework); and Policies QD6.1, QD6.2, QD6.3, QD6.4 and HE7.2 of the Watford Local Plan 2022 (the LP), with regards to conserving and enhancing the historic environment and achieving good design that respects local identity and character.

Living conditions of the occupiers

11. The proposed dwelling would be in close proximity to a number of potential noise sources, most notably the vehicle repair/tyre workshop immediately below it, as well as a fish and chip shop at No 209A, and a main railway line a short distance to the east. Consequently, there is potential for significant adverse noise effects for occupiers of the proposed dwelling at all times of the day and into the night.
12. As this matter formed part of the refusal reasons for a previous planning application at the site, it should be of no surprise to the appellant that it required addressing in this appeal scheme. Yet, no noise impact assessment has been provided. An assessment of noise levels is crucial to assess if the site is an appropriate location for the development and what levels of noise mitigation, if any, may be necessary to avoid a detrimental impact on the living conditions of its future occupiers. The onus is on the developer to provide such information.
13. I have considered whether planning conditions could be utilised to secure mitigation measures, but as I have no substantive evidence to ascertain what mitigation measures may be required and whether they would be effective, it would not be an appropriate approach to take in this case.
14. Consequently, it has not been demonstrated that the development would provide acceptable living conditions for its occupiers with regards to noise impact.
15. In addition to the above, the Council has raised concerns over internal space standards and garden/amenity space provision. Policies HO3.10 and HO3.11 of the LP, and the Council's Residential Design Guide Supplementary Planning Document 2014 (SPD) require compliance with the Technical Housing Standards – Nationally Described Space Standard (NDSS) and also set private amenity/garden space standards based on the size and type of property.
16. The drawings show a unit with one bedroom, an open plan kitchen/living room, a bathroom, and a storage space, all at first floor level. Access would be via an enclosed stairway which includes space at ground floor level for cycle storage.
17. The Council has assessed the proposal as a 1-bed, 2-person dwelling over two storeys with a Gross Internal Area (GIA) of approximately 53m². However, given all the living accommodation would be at first floor level, it would be more reasonable to class the development as a one storey dwelling. Furthermore, despite some conflicting information over the precise floor area of the bedroom, its width of 2.25m is below the minimum requirement of 2.75m for a double/twin room, and so, it should be treated as a single bedroom.
18. Consequently, the proposed development is a 1-bed, 1-person dwelling over one storey and comfortably exceeds the minimum GIA requirement of 39m² under the NDSS. Even if it were a 2-person dwelling, it would still exceed the minimum GIA requirement of 50m² for a one-storey dwelling. As such, the proposal complies with LP Policy HO3.10 and the SPD with regard to internal space standards.
19. The minimum balcony area that is expected for a 1-bed flat is 5m² with a minimum width of 1.5m. The proposed balcony would have an internal width of approximately 1.25m, but its overall area would be around 6.7m². The shortfall

in width is very minor, and in my view, would be sufficiently offset by the overall size of the balcony. On balance, I consider that the development would provide suitable outdoor amenity space for its occupiers, and so, I attach little weight to the technical conflict with Policy H03.11 of the LP.

20. Drawing these matters together, whilst the development would be acceptable in relation to internal and external space standards, it has not been demonstrated that it would provide suitable living conditions for its occupiers in terms of noise impacts. For this reason, the proposal is contrary to paragraphs 130(f) and 174(e) of the Framework, which seek to secure a high standard of amenity for future users, and prevent new development being adversely affected by unacceptable levels of noise.

Living conditions of neighbours

21. The proposal includes a balcony area for the existing flat at 209B. I am advised that this is intended to be a replacement for the loss of an existing outdoor terrace, although I was unable to confirm its presence due to the tyre storage taking place. If there is currently an outdoor area on the roof for 209B, it is likely to be of very poor quality.
22. The minimum balcony area that is expected for this 2-bed unit is 7m² with a minimum width of 1.5m. The proposed balcony would have an internal width of approximately 1.25m and an overall area of around 6.6m². Again, this represents a shortfall against the relevant policy requirements, but in reality it would be very minor. Moreover, there would be a significant improvement to the quality of the outdoor space compared to the current arrangement, assuming such provision exists. On balance, I consider that the development would provide adequate outdoor amenity space for the occupiers of 209B.
23. The proposal also involves some changes to the fenestration of the existing flat above 209A. In particular, the Council is concerned that the relocated bedroom window in the eastern elevation would have a poor outlook. I agree that the direct outlook from this window would be highly enclosed, but this is not a single bedroom or single aspect dwelling, and the window would still likely receive light and have some view of the sky. It is also significant that the existing bedroom window is currently completely blocked by the tyre storage on the roof. Therefore, whilst the level of outlook from this window would not be ideal, it would nevertheless result in an improvement over the existing situation.
24. The flats above No 207 have various windows at the rear. The SPD contains a general rule of thumb termed 'the privacy arc' which advises that habitable room windows will only be accepted within the 'arc' if a proposal is at right angles or at an angle greater than 90 degrees to a habitable window at an existing property.
25. The relationship between the rear elevations of the development and No 207 would be less than 90 degrees. However, the appellant advises that the closest window at the rear of No 207 is a landing window, with the nearest habitable room window being further away and at a higher level. This has not been contested. Furthermore, the lack of explanation in the Council's officer report means it is unclear how the 'privacy arc' rule has been used in this case. Having reviewed the relationship on site, it seems to me that any views

between the respective habitable windows would be at such an acute angle that the effect on privacy would be minimal.

26. In light of all the above, I find that the development would not materially harm the living conditions of neighbouring occupiers at Nos 207, 209A and 209B. Thus, whilst the proposal technically fails to comply with some of the requirements of LP Policy H03.11 and the SPD, there is compliance with their overarching aims, and paragraph 130(f) of the Framework, in so far as they relate to the protection of residential amenity/living conditions.

Car free housing

27. The proposal does not include any provision for car parking within the site and is located within a controlled parking zone. However, opportunities for walking, cycling, and excellent public transport links in the area, mean that a 'car free' development could be acceptable in line with the aims and objectives of Strategic Policy SS1.1 and Policy ST11.5 of the LP.
28. The appropriate mechanism for this to be secured would be via a legal agreement to secure a financial contribution towards the variation of the Controlled Parking Zones to exclude future occupiers of the development from applying for parking permits. Whilst the appellant is willing to enter into such an agreement, there is no legal agreement before me. I have noted the appellant's concerns over the Council's alleged handling of this matter, but the onus is ultimately on the developer to provide the completed legal agreement.
29. I have considered whether the matter could be resolved by planning conditions. However, the requirements relating to the restriction of parking permits go beyond matters which can be reasonably controlled by a planning condition. Furthermore, the Planning Practice Guidance on the use of planning conditions makes clear that a condition which requires the developer to enter into a planning obligation is unlikely to be appropriate.
30. In the absence of an appropriate mechanism to secure the development as 'car free', the proposal could potentially lead to parking stress in the area, and would also run contrary to the Council's aims of promoting sustainable travel behaviour and addressing car related impacts on air quality and carbon emissions. The proposal therefore conflicts with Policies SS1.1 and ST11.5 of the LP in these regards.

Other Matters

31. The contribution to the delivery of housing in a highly accessible location is a positive aspect of the scheme. There would also be short term economic benefits from construction. However, the public benefits in this regard would be limited due to the small scale of the development. There would also be limited public benefits from some visual enhancements at the site.
32. Compliance with relevant requirements of the development plan in relation to the CA, internal and external space standards, and the living conditions of neighbouring occupiers is neutral.
33. Whilst the Framework promotes development of brownfield sites and upward extensions for new homes, this should not be at the expense of other important environmental considerations. Given the harm I have identified in

relation to potential noise impacts and the failure to secure a 'car free' development, the proposal would not be an effective use of land in the terms of the Framework.

34. The appellant states that the Council has failed to provide the number of new homes required based on a measurement of 48% in the Housing Delivery Test Results of 2020. However, since that time the Council has adopted a new Local Plan (2022). No up-to-date evidence of housing delivery is before me. Nevertheless, even if the housing policies relevant to this proposal were found to be out of date, the adverse impacts of the proposal would significantly and demonstrably outweigh the limited benefits that would arise when assessed against the policies in the Framework taken as a whole. The scheme would not therefore benefit from the Framework's presumption in favour of sustainable development.

Conclusion

35. The proposal has not demonstrated that it would provide its occupiers with acceptable living conditions with regards to noise impacts and fails to secure 'car free' housing. It therefore conflicts with the development plan taken as a whole. There are no material considerations, including the Framework, which indicate that a decision should be taken other than in accordance with the development plan.
36. I therefore conclude that the appeal should be dismissed.

A Caines

INSPECTOR