



Appeal Decision

Site visit made on 31 October 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 November 2023

Appeal Ref: APP/C1950/W/23/3321104

Annex at 51 School Lane, Welwyn, Hertfordshire AL6 9PL

- 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 Mrs Amy Pattison against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2022/1266/FULL, dated 27 May 2022, was refused by notice dated 20 January 2023.
 - The development proposed is described on the application form as 'Change of use of annex to separate Class C3 dwellinghouse'.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Background

2. The Council's decision notice refers to saved policies of the Welwyn Hatfield District Plan 2005 and a policy contained within the Welwyn Hatfield Draft Local Plan Submission 2016. The Welwyn Hatfield Borough Council Local Plan 2016 – 2036 (LP) was adopted on 12 October 2023. The Council has provided the revised policies and the appellant has been given the opportunity to make a further submission in this regard. In light of this re-consultation, I am satisfied that no party has been prejudiced by my consideration of the appeal proposal against the policies of the newly adopted LP.
3. The Council refer, in their officers report, to inaccuracies in the submitted plans, with specific reference to inconsistencies between the location plan and other plans, together with the absence of details of solar panels and roof lights on the roof plan. However, the Council was satisfied that there was sufficient information to enable a formal determination to take place. The appellant indicates that the change in the site location plan was made in an attempt to overcome the matters referred to in the Council Officer's report. That said, they are content for me to consider either the original or amended plan. In this regard I have been referred by the appellant to the judgement under *Wheatcroft* but have also given consideration to the more recent judgement in *Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)*. Taking all these matters into consideration I find that the proposed amendments would not involve a "substantial difference" or a "fundamental change" to the application, nor would they cause unlawful procedural unfairness to anyone involved in the appeal. Consequently, I have considered the amended plans in my assessment.
4. I am also mindful that there have been 2 previous appeals relating to the appeal site, which are material matters that I am required to take into account when determining this appeal.

5. The first appeal¹ related to the change of use of outbuildings to a self-contained one bedroom dwelling, which was dismissed on 28 January 2020. The Inspector concluded, at that time, that the proposal would significantly harm the character and appearance of the area, contrary to saved Policy D1 of the Welwyn Hatfield District Plan 2005.
6. The second appeal² followed the service of an enforcement notice, which alleged that a detached outbuilding and associated engineering operations had taken place without the benefit of planning permission. The enforcement notice was quashed and planning permission granted. That said, the Inspector made it clear in her decision, at paragraph 21, that the enforcement notice did not relate to the use of the outbuilding and the deemed planning application only related to the operational development. Moreover, in paragraphs 22 and 23 she indicated that the use of the outbuilding could be argued to be physically and functionally connected with the use of the house and a new planning unit would not be created. She indicated that in the event that there was a material change of use to create a separate dwelling then another grant of planning permission would be required.
7. At the time of my site visit the appeal property comprised of two main rooms, referred to as a lounge and bedroom on the proposed plans. The lounge was being used as a bedroom and contained a double bed. The room labelled as Bedroom 1 had an en-suite and contained two single beds. There was also a separate bathroom and a utility area containing fitted cupboards, which in the event of the appeal being allowed would be used as a kitchen. In front of the building was a driveway with associated turning area, and a small amenity area surfaced in artificial grass. Provision had been made within the curtilage of the site for the storage of bins, a water butt for rainwater collection and a pull out washing line. Boundary fencing had been erected, dividing the property from 51 School Lane. From my observations it appeared that the building is currently being used as a separate dwelling. That said, I am not in a position to assess whether occupation is on a permanent or temporary basis, or whether it is being used as an air B and B, as alluded to by the Council.

Main Issue

8. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

9. The appeal site is located within a predominantly residential area comprising of mainly 2 storey, semi-detached and detached properties. The dwellings are set back from the highway by a modest distance and for the most part have generous rear gardens. The mature landscaping within the gardens give the area an open and spacious character.
10. The development is located on a plot smaller than those found in its immediate vicinity. Given the restricted size of the plot, there would be a more intensive use of the space provided in order to accommodate necessary domestic activities, including parking, bin storage and amenity space. The provision of boundary fences, subdividing the appeal building from 51 School Lane, further reduces the spacious qualities that the rear garden would have had prior to the

¹ APP/C1950/W/19/3238498

² APP/C1950/C/20/3259464

subdivision taking place. As a result, the development appears cramped within its plot and out of keeping with the more generous spatial qualities found in other properties in the locality.

11. I acknowledge that outbuildings within rear gardens, of varying size and design, are not uncommon in the area. That said, the majority of them occupy only a small part of the spacious gardens within which they are set. This contrasts markedly with the appeal building which has only limited space around it and occupies a large part of the width and depth of its plot. As a result, the proportional relationship between the building and its plot is not in keeping with the character and appearance of its surroundings.
12. The appellant, in their comments relating to the change in circumstances arising from the recent adoption of the LP, have referred to density of development arising from the provision of two dwellings on an area of 0.0509 hectares. They indicate that the proposal would result in a density of 39.29 dwellings per hectare, which falls within the range of 30-50 net dwellings per hectare specified in Policy SP9 of the adopted LP. Whilst acknowledging that density can be used as a tool to analyse a sites character and context, other factors including its surroundings, the wider townscape and landscape, also need to be taken into account. In this regard, for the reasons set out above, and in the absence of substantive evidence regarding the density of development in the locality of the site, I find that density is not the determinative factor when assessing this appeal.
13. I accept that the building already exists and is largely screened from view from School Lane. However, its siting to the rear of No 51, with access under a first floor element of the host property, is in marked contrast to other properties in the street, which have active frontages onto School Lane. Consequently, the dwelling fails to engage with the streetscene to the same degree as other properties within the locality.
14. I saw on my site visit that there were other dwellings in the locality that have been erected on former garden land, including one to the rear of the adjacent property at 49 School Lane. However, I am not aware of the circumstances that prevailed when that development was permitted. Moreover, I note that that property has a frontage onto Hawbush Rise, and consequently it is not directly comparable to the proposal before me. In any event all decisions should be made on their own individual merits.
15. Taking all these matters together, I conclude that the proposal would harm the character and appearance of the area. Consequently, it would be contrary to Policy SP9 of the Welwyn Hatfield Borough Council Local Plan 2016 – 2036, and the Council's Supplementary Design Guidance (adopted February 2005). The policy and guidance jointly seek, amongst other matters, to prevent harm to the character of the surrounding area, including the street scene. It would also be contrary to paragraph 130 of the National Planning Policy Framework (the Framework) which, amongst other matters, requires developments to add to the quality of the area and be sympathetic to local character.

Other Matters

16. The Council's position at the time it determined the application was that it had built 1,450 homes in the period 2017/18 – 2019/20 against a target of 2,284, which equates to 63% of their target. I have been provided with no further

evidence to indicate what the current position is. As housing supply has fallen below 75%, paragraph 11(d) of the Framework, which requires a presumption in favour of sustainable development, applies.

17. The appellant refers to the effect of the recent adoption of the LP, with particular reference to footnote 40, and the requirement for an immediate review of the local plan based on five year land supply consideration. In this regard I note that Policy SP2 of the adopted LP states that *'The examination has identified a Full Objectively Assessed Housing Need (FOAHN) for the borough of 15,200 dwellings between 2016 and 2036 (an average of 760 dwellings per annum). Between 1st April 2016 and 31st March 2023, 3,218 dwellings have already been delivered. This plan has identified opportunities on specific sites in and around the towns and excluded villages to facilitate the delivery of 9,343 dwellings between 2023/24 and 2032/33 and 13,400 dwellings over the plan period 2016-36. Opportunities to meet the remaining need will be the subject of an early review of the plan.'* In the following paragraph the Council say they will undertake a review of the Local Plan, which will commence no later than one year after the adoption of the plan. An updated or replacement plan will be submitted for examination no later than three years after the date of adoption of the plan.
18. In light of the above I accept that the Council are not currently in a position to demonstrate a 5 year housing land supply and consequently the tilted balance applies. However, the presumption is not engaged if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
19. The provision of 1 additional dwelling would provide a benefit which weighs in favour of the development. However, any benefit would be limited when considered against the overall shortfall that has been identified.
20. I also accept that the appeal site is in a sustainable location, with services and facilities within a short distance. There would also be no adverse impact on the amenity of neighbouring occupiers. However, these are neutral matters and do not weigh in favour of the proposal.
21. Taken together these benefits do not outweigh the significant harm to the character and appearance to the area that I have identified above.

Conclusion

22. There are no other relevant material considerations worthy of sufficient weight that indicate the application should be determined other than in accordance with the development plan as a whole. For the reasons given above, I therefore conclude that the appeal should be dismissed.

J Gunn

INSPECTOR