



Appeal Decision

Site visit made on 13 December 2023

by Juliet Rogers BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st February 2024

Appeal Ref: APP/C1950/W/23/3323499

11 Tolmers Gardens, Cuffley, Potters Bar, Hertfordshire EN6 4JE

- 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 Sonar Group Ltd against the decision of Welwyn Hatfield Council.
 - The application Ref 6/2023/0374/FULL, dated 17 February 2023, was refused by notice dated 14 April 2023.
 - The development proposed is the conversion and extension of the existing dwellinghouse to create four x 1-bed apartments.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion and extension of the existing dwellinghouse to create four 1-bed apartments at 11 Tolmers Gardens, Cuffley, Potters Bar, Hertfordshire, EN6 4JE in accordance with the terms of the application, Ref 6/2023/0374/FULL, dated 17 February 2023, subject to the attached schedule of conditions.

Preliminary Matters

2. Following the Council's decision, the Welwyn Hatfield Borough Council Local Plan 2016-2036 (the Local Plan) was adopted (October 2023). As a result, the policies referred to in the decision notice have been replaced. Additionally, a new version of the National Planning Policy Framework (the Framework) came into effect. The main parties have been invited to provide further comments on both these documents and, where received, I have taken them into account in my decision. I am satisfied no party would be prejudiced by determining the appeal accordingly.

Main Issues

3. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - the effect of the proposed development on the living conditions of neighbouring occupiers of 12 Tolmers Gardens (No 12) with particular reference to the communal garden space, outlook and the proposed location of the refuse and recycling store;
 - whether future occupiers of the proposed development would be likely to experience adequate living conditions, with particular reference to the communal garden space, daylight and the proposed location of the refuse and recycling store; and

- the effect of the proposed car parking provision and the proposed location of the refuse and recycling store on the safety of users of Tolmers Gardens.

Reasons

Character and appearance

4. The appeal site comprises a detached, two-storey dwelling located within a cul-de-sac close to the shops and services of the settlement on either side of Station Road. Whilst detached, two-storey dwellings are the predominant form, the character of the street scene is more strongly influenced by other features. These features include the rising topography and curvature of the cul-de-sac from its junction with Tolmers Road and the variety of dwelling types, heights, architectural styles, materials and colours present.
5. The proposed development would extend the existing dwelling to create four apartments, increasing the scale and bulk of the property. As currently one of the smallest detached two-storey dwellings in this part of the cul-de-sac, even with this increase, the scale of the proposed development would not be significantly greater than other properties nearby. Despite the lack of quantification or qualification of the term by the Council, the proposed development would not lead to an overdevelopment of the site.
6. Whilst the side positioning of the main access to other properties is not a principal characteristic of the cul-de-sac, nevertheless side entrances serve the flatted development at No 12 and 13A Tolmers Garden. The front elevation of the proposed apartments would retain the double-height bay window and the natural surveillance of the public highway, both of which are common features in the cul-de-sac. Therefore, combined with the variety in the built form identified above, a side entrance would not disrupt the character and appearance of the area.
7. Although views of the countryside from the upper floors of properties within the cul-de-sac may be possible, the built form nearby and adjoining the site, including residential development and the shops and services along Station Road, dominate the character of the area. Furthermore, gaps between the neighbouring built form are retained, albeit to a lesser extent, and the proposed roofscape would maintain the pattern of ridge heights which step down with the topography.
8. The application plans currently indicate the location of the proposed refuse and recycling store and its proximity to a collection point adjacent to the pavement to meet the requirements of the Manual for Streets and the convenience of future occupiers. It may be the case that future occupiers will leave the various bins at the front of the property permanently or may not return them to the store promptly once emptied. Whilst this would have a detrimental effect on the street scene, I see no reason to conclude that the probability of this happening would be any greater than within other parts of the cul-de-sac. Moreover, the provision of a suitable refuse and recycling store, the final location and design of which can be satisfactorily agreed with the Council via a condition, would encourage the appropriate storage of the bins.
9. I conclude that the proposed development would not harm the character and appearance of the area and would comply with policies SP9 and SADM12 of the Local Plan. These policies require, amongst other aspects, development to

relate well to its surroundings, including respecting neighbouring buildings and appropriately site and design refuse storage to maintain an attractive and coherent street scene. It would also accord with the Council's Supplementary Design Guidance (the Design Guidance) which amplifies these policies. I find no conflict with Chapter 12 of the Framework which requires development to be sympathetic to the surrounding built environment.

Living conditions – neighbouring occupiers

10. The proposed communal amenity space would combine the existing garden of No 11 with the communal amenity space currently serving the neighbouring occupiers of the eight flats at No 12. Although no rigid space standards are set out, Policy SADM11 of the Local Plan requires external private or communal garden space, in its extent and design, to meet the reasonable needs of its users.
11. The existing communal garden extends from the parking area for No 12 to the boundary with 10 Tolmers Gardens, to the rear of the garden of No 11. It comprises a grassed area, planting largely around the perimeter and a pathway leading to a patio with a bench. The section to the rear of No 12 is narrow due to the existing store adjacent to the parking area and the distance between the private space associated with the ground-floor apartment and the rear boundary. The primary function of the existing communal garden is to provide informal recreational space.
12. The proposed communal garden arrangement would comprise a larger area and its depth at the rear of No 11 would be increased. Combined with a more regularly shaped space, this enlargement would provide additional opportunities for multiple functions of sufficient size to meet the reasonable needs of neighbour occupiers of No 12 to be supported. Subject to the approval of a suitable scheme of hard and soft landscape works, the proposed communal garden would not harm the living conditions of the neighbouring occupiers.
13. The proposed side extension would reduce the gap between the existing property and No 12. Although there are windows serving bedrooms at the ground and first-floor levels in the side elevation of No 12, these are located in the front and rear-facing sections of the projected part of the side elevation. The outlook from the rear-facing windows would be marginally reduced by the rear extension to No 11 but not to the extent that it would be harmful to the living conditions of the occupants of these flats. Furthermore, I see no reason to conclude that the proposed development would lead to a loss of daylight reaching the rooms served by these windows.
14. The proposed refuse and recycling store is indicated in the gap between No 11 and No 12 which, following the removal of the boundary fence, would also provide access to the rear. Subject to a condition requiring the Council to agree to the design and location of the proposed store, the gap between the buildings is sufficient to allow the siting of the store while maintaining the rear access. When housed in a suitable structure, I see no reason to conclude that the bins would result in unpleasant odours and prevent neighbouring occupiers of No 12 from opening their windows. Therefore, the proposed store would not be likely to cause a health risk nor harm the living conditions of occupiers of No 12.
15. A balcony is proposed at the first-floor level, on the rear elevation. Whilst this would provide views into the private amenity space of neighbouring occupants

of the rear ground floor flat at No 12, such views would not be significantly greater than those typically experienced and accepted in similar residential environments. Therefore, the proposed development would not cause an unacceptable loss of privacy to neighbouring occupiers.

16. I conclude that the proposed development would not harm the living conditions of neighbouring occupiers of No 12 with particular reference to the communal garden space, outlook and the proposed location of the refuse and recycling store. It would comply with policies SADM11 and SADM12 of the Local Plan which require, amongst other provisions, external private and communal garden space to meet the needs of its users and for bins to be sited to perform their function without prejudicing other uses or users. These policies are reiterated in the Design Guidance to ensure developments are designed to maintain adequate living conditions for occupiers of existing developments.
17. It also accords with Chapter 12 of the Framework which supports the creation of places that are inclusive and accessible, with a high standard of amenity for existing occupiers.

Living conditions – future occupiers

18. As set out above, I have concluded that the proposed communal garden space would not harm the living conditions of neighbouring occupiers of No 12. As this space would also serve the future occupiers of the proposed development it would provide, subject to a condition, a suitable multi-functional space of sufficient size to meet the reasonable needs of its users.
19. The first-floor window serving the proposed study within Flat 3 would be fitted with obscured glass to protect the privacy of existing occupiers of No 12 as well as the future occupiers of Flat 3. Notwithstanding the size and intended use of the room this window would serve, the principal function of obscured glazing is to provide privacy whilst allowing daylight through. Therefore, I see no reason to conclude that this room would not benefit from adequate levels of daylight.
20. As highlighted above, through the use of a condition, the location and design of the proposed refuse and recycling store could be agreed upon with the Council to ensure no harm is caused to the living conditions of the future occupiers.
21. I conclude that future occupiers of the proposed development would be likely to experience adequate living conditions, with particular reference to the communal garden space, daylight and the proposed location of the refuse and recycling store. As such, it would accord with policies SADM11 and SADM12 of the Local Plan which require, amongst other provisions, external private and communal garden space to meet the needs of its users and for bins to be sited to perform their function without prejudicing other uses or users. These provisions are supported by the Design Guidance.
22. It also accords with Chapter 12 of the Framework which supports the creation of places that are inclusive and accessible, with a high standard of amenity for future occupiers.

Highway safety

23. Policy SADM2 of the Local Plan is supportive where development provides no negative impacts on highway safety and suitable levels of parking are provided following the criteria set out in Policy SADM12. The application plans indicate

that four parking spaces will be provided for the proposed apartments, located at the front of the site and outside No 12, which is also within the ownership or control of the appellant. As a parking area is currently provided to the front of No 11 and given the low-trafficked nature of the cul-de-sac, I see no reason to conclude the location of the proposed spaces would harm the safety of users of Tolmers Gardens in this respect.

24. The amount of parking to be provided in development, as outlined in Policy SADM12, should be informed by the Council's parking standards, the accessibility of the site to public transport, services and facilities and the likely demand from the development. Additionally, there is a need to promote more sustainable forms of travel. Whilst not a formal part of the development plan, the Interim Car Parking Policy¹ establishes that the maximum standards set out in the Parking SPG² should be treated as guidelines. Therefore, rather than providing 1.25 spaces per dwelling or 5 spaces overall, the onus is on the appellant to demonstrate the appropriate provision.
25. A range of shops, services and facilities are located on either side of Station Road, within walking distance of the site. Cuffley railway station also lies within walking distance of the site with bus services operating from the station. Therefore, combined with the provision of a cycle store for eight cycles, future residents would not need to rely on the use of a private vehicle to meet their everyday needs.
26. Notwithstanding the dispute between the main parties regarding whether the Transport Note³ was submitted before the determination of the application, nevertheless, it forms part of the appeal documentation and the Council has had the opportunity to respond to it. The Transport Note demonstrates, using levels of car ownership in the local area and acknowledging the parking restrictions currently within Tolmers Gardens, that one space per dwelling would be sufficient for the proposed development. I have limited substantive evidence to conclude that this level of parking would not be appropriate. Whilst the potential location of the parking is indicated on the application plans, I can impose a condition requiring the siting and allocation of the spaces to be agreed upon with the Council.
27. The potential for various bins to be left on the pavement, obstructing pedestrian movement is not unique to the appeal scheme. As highlighted above, the provision of a refuse and recycling store via a condition in a location and of a size acceptable to the Council would encourage future occupiers to store bins appropriately to prevent the obstruction of public and private spaces.
28. I conclude that the proposed car parking provision and the proposed location of the refuse and recycling store would not cause harm to the safety of users of Tolmers Gardens. It accords with policies SADM2 and SADM12 of the Local Plan in these respects. In addition, I find no conflict with the Interim Car Parking Policy or the Parking SPG.
29. As I have concluded that the proposed development would not lead to an unacceptable impact on highway safety, it accords with Chapter 9 of the Framework.

¹ Interim Policy for Car Parking and Garage Sizes (the Interim Car Parking Policy)

² Welwyn Hatfield Parking Standards Supplementary Planning Guidance (the Parking SPG)

³ Prepared by Icen Projects Limited, dated May 2023

Other Matters

30. Representations have been made by several interested parties, raising concerns about the increase in traffic due to the proposed development. As the appeal scheme comprises three additional dwellings, any increase in traffic and associated noise, would be minimal. Any disturbance during the construction period will be short-lived and can be suitably controlled through the imposition of a condition restricting the hours of work. Additionally, adherence to other regulations and standards will be required during the construction of the development, including controls relating to dust and dirt.
31. As the rooms marked as a study within the proposed apartments do not meet the floor space required for a single bedroom, as set out in the Nationally Described Space Standards, the use of these rooms as an additional bedroom is unlikely.
32. Whilst concerns have been expressed regarding the accuracy of the application plans and accompanying planning statement, I have little substantive evidence to conclude this is the case. Whilst the proposed development comprises a similar scheme to a previously refused planning application⁴, amendments have been made to the siting of the rear elevation and size of the communal space. I have based my decision on the scheme and evidence before me.
33. Matters relating to the application process and the consultation undertaken by the Council are not matters for this decision. The content of the information provided to neighbouring occupiers when purchasing their property and the agreements in place with the appellant are legal matters. While representations have been made regarding existing sewerage problems in the area, these also fall outside the remit of this decision.
34. Planning is concerned with land use in the public interest and does not exist to protect private interests such as the impact of the proposed development on the value of a neighbouring property.

Conditions

35. have considered the Council's suggested conditions in light of advice contained within the Framework and the National Planning Practice Guidance. I have undertaken some minor editing, rationalisation and reordering, in the interests of precision and clarity. Where appropriate, I have also removed the detailed lists of matters to be included from the conditions as they are not necessary to make the conditions precise or enforceable. Additionally, this approach enables the parties to agree on the most suitable method of compliance based on best practices at the time of discharging the conditions.
36. In addition to the standard time condition, I have imposed a condition requiring that the development is carried out following the approved plans, for the avoidance of doubt and in the interests of the character and appearance of the area.
37. To protect nearby residents from construction noise at unreasonable times of the day and week, I have imposed a condition which specifies when demolition or construction works are permitted on the site. This condition was proposed by

⁴ Council ref:6/2022/0374/FULL

the Council's Environmental Health Officer and responds to concerns raised by several interested parties.

38. To ensure the external building works accord with Policy SP9 of the Local Plan, the Design Guidance and the Framework, it is necessary to impose a condition requiring the external materials to be approved by the Council. For similar reasons, a condition has been imposed requiring details of the roof design to be approved.
39. To safeguard the visual appearance of the area, following policies SP9, SADM11 and SADM16 of the Local Plan, the Design Guidance and the Framework, I have imposed a condition relating to a hard and soft landscaping scheme, including the external amenity space. It is not necessary to add a list of requirements to make this condition precise or enforceable. This approach also enables the main parties to agree on the most suitable method of compliance based on best practices at the time of discharging the conditions.
40. A condition relating to the provision of waste, recycling and cycle stores has been imposed to safeguard the character and appearance of the area, provide adequate living conditions for neighbouring and future occupiers, and encourage alternative modes of transport. This complies with Policy SADM12 of the Local Plan, the Interim Car Parking Policy and the Framework.
41. Following policies SP4, SADM2 and SADM12 of the Local Plan, the Interim Car Parking Policy and the Framework, and in the interests of highway safety, details of the location and allocation of vehicle parking are required by condition.
42. I have set the timing for the conditions relating to external materials, the roof design, landscape works, bin and bike stores, and car parking layout to relate to the development's damp-proof level as it is a more precise measurement than ground level.
43. To protect the living conditions of neighbouring and future occupiers, I have imposed a condition requiring the details of any external lighting to be approved by the Council before installation. This complies with policies SADM11 and SADM18 of the Local Plan, the Design Guidance and the Framework.
44. Finally, a condition has been imposed requiring obscured glazing to be installed in an upper-floor window on a side elevation of the proposed development. This is in the interests of the living conditions of both future and neighbouring occupiers, and following Policy SADM11 of the Local Plan, the Design Guidance and the Framework.

Conclusion

45. For the reasons given above, and taking into account all relevant matters raised, I conclude that the appeal should be allowed.

Juliet Rogers

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - LP.01 – Location Plan
 - P.01 – Proposed Layout: Ground Floor and First Floor Plans
 - P.02 – Proposed Layouts: Second Floor and Roof Plans
 - P.03 – Proposed Elevations & Sections
 - P.04 – Streetscape
 - P.05 – Site Plans
- 3) Demolition or construction works shall take place only between:
 - 08:00 – 18:00 Monday-Friday
 - 08:00 – 13:00 Saturdayand shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) No development above the damp-proof level shall take place until details of the proposed crown roof have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out strictly in accordance with the approved details unless otherwise agreed in writing with the local planning authority.
- 5) No development above the damp-proof level shall commence until details of the materials and finishes to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. The relevant works shall be carried out strictly in accordance with the approved details unless otherwise agreed in writing with the local planning authority.
- 6) No development above the damp-proof level shall commence until a scheme of hard and soft landscape works, including the external amenity space, is submitted to and approved in writing by the local planning authority. With the exception of the planting, seeding or turfing, the approved details shall be implemented prior to any part of the development being occupied and thereafter retained and maintained.

All planting, seeding or turfing comprising the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the dwellings, the completion of the development, or in agreed phases whichever is sooner. Any planting found damaged, dead or dying within a period of 5 years following planting or seeding shall be replaced in the next planting season with others of a similar size and species unless otherwise agreed by the local planning authority.
- 7) No development above the damp-proof level shall commence until the full details of the refuse and recycling store and the cycle store are submitted to and approved in writing by the local planning authority. The approved

refuse and recycling store and the cycle store shall be implemented prior to the occupation of any part of the development, in accordance with the approved details and thereafter be maintained and retained.

- 8) No development above the damp-proof level shall commence until the full details of the layout and allocation of car parking spaces shall be submitted to and approved in writing by the local planning authority. The approved car parking spaces shall be implemented prior to the occupation of any part of the development, in accordance with the approved details and thereafter be maintained and retained. The car parking spaces shall be kept available at all times for the parking of motor vehicles by the occupants of the dwellings and their visitors and no other purpose.
- 9) Prior to the installation of any external lighting, details of the external lighting shall be submitted to and approved in writing by the local planning authority. The external lighting shall be implemented in accordance with the approved details and maintained thereafter.
- 10) The development hereby permitted shall not be occupied until any upper-floor window located in a wall or roof slope forming a side elevation has been fitted with obscured glazing. No part of those windows which are less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Details of the type of obscured glazing shall be submitted to and approved in writing by the local planning authority before the window is installed and once installed the obscured glazing shall be retained thereafter.

End of Schedule