



Appeal Decision

Site visit made on 19 December 2023

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 February 2024

Appeal Ref: APP/M0655/W/23/3319586

Land adjacent to 137 Kingsway North, Warrington WA1 3NX

- 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 Emerald Bay Ltd against the decision of Warrington Borough Council.
 - The application Ref 2022/41284, dated 21 March 2022, was refused by notice dated 14 March 2023.
 - The development proposed is Construction of apartment building comprising 5 apartments with associated landscaping and parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the course of the appeal the Council adopted the Warrington Local Plan¹ (the 'Local Plan') which replaces the Core Strategy. Both parties have confirmed that Policy QE6 of the Core Strategy has been superseded by new Local Plan Policy ENV8 (Environmental and Amenity Protection). I have determined the appeal on this basis and the parties have had the opportunity to comment.
3. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published on 19 December 2023. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that this has not prejudiced any party and I have had regard to the latest version in reaching my decision.

Background and Main Issues

4. A previous proposal on the site was dismissed on appeal². That scheme was for a building to provide 6no. 1-bedroom flats and 6 parking spaces. The site included part of the rear garden of the adjacent dwelling 137 Kingsway North, such that three parking spaces would have backed onto the rear gardens of 135 and 137 Kingsway North (Nos.135 and No.137).
5. The appeal proposal before me is a revised submission. It would be for 5no. 1-bedroom flats and 6 parking spaces. The site is smaller than the previous scheme and no longer includes the land and car parking to the rear of Nos.135 and 137.

¹ Adopted 4 December 2023

² APP/M0655/W/21/3278713 dated 17 November 2021

6. The main issues in this appeal are:

- The effect of the proposal on highway and pedestrian safety with particular regards to parking, and
- The effect of the proposed development on the living conditions of existing occupants of No.137 with particular regard to noise and disturbance.

Reasons

Highway safety

7. Access would be via an existing dropped kerb off Kingsway North and along a narrow drive that would run the length of the site to a car parking area at the rear of the site. Four parking spaces would be positioned along the rear site boundary, with a further two spaces provided in the undercroft of the building. The proposal would provide 6 on-site parking spaces for 5no. 1-bedroom flats, in line with the Council's parking standards.
8. Whilst the submitted swept-path analysis (based on a large car) shows that it is technically possible for a vehicle to get in and out of all the spaces, some spaces would require a number of manoeuvres. In particular, manoeuvring into the undercroft spaces would be more difficult, compounded by the need to avoid the central supporting brick pier. The swept-path analysis does not appear to show how vehicles would manoeuvre if all the parking spaces were occupied. The constrained nature of the parking area would make it difficult for any vehicle to turn around without using any of the spaces. Instead vehicles would likely have to reverse down the single-width driveway and reverse onto Kingsway North and park elsewhere.
9. Nonetheless, if access to parking spaces is difficult and parking spaces are too small, narrow, awkward or inconvenient to use, or perceived as such, drivers are more likely to park their vehicles on the road. It is therefore likely that some occupiers/visitors would park on the road more frequently.
10. I saw that Kingsway North was a wide and well-trafficked road with no parking restrictions in the vicinity of the site. At the time of my visit, albeit a snapshot in time, there were only a few vehicles parked on the road. There were residential properties on one side of the road which had driveways and on-site parking. However, most occupants would have to reverse into or out of their driveways onto Kingsway North and I am aware from interested parties that at times traffic is heavier making it more difficult to get out of driveways. There is an allotment on the opposite side of the road and The Twiggeries park nearby that may attract some on-street parking. From my observations I saw that traffic, including buses, was able to pass parked cars and could travel in both directions generally unimpeded.
11. With the scale of the proposed development for 5 flats and them being 1-bedroom, the majority of parking is likely to be accommodated for within the site, such that any overspill parking onto Kingsway North would be of limited frequency. On-site provision has also been made for cycle parking and this would increase the opportunities reduce reliance on the car.
12. Pedestrians walking to the front door of the building, either from the road or car parking area at the rear, would have to share the narrow driveway with

vehicles. The submitted Highways Technical Note 02 has supplied TRICS data to indicate the development is forecast to generate 2 two-way movements in the AM peak hour and 1 two-way movement in the PM peak hour. Hence the likely incidences of vehicles encountering each other would be small, and hence encountering pedestrians at the same time. Furthermore, traffic speeds are likely to be low and most users of the driveway would be residents familiar with the parking and access arrangements. Whilst the layout has some limitations, I am satisfied that on balance pedestrian safety would not be materially compromised.

13. In the absence of substantive evidence to the contrary and considering the likely low frequency of vehicles meeting each other, the limited frequency of vehicles needing to park on the road, and the nature of Kingsway North I am satisfied that any on-street parking that may arise from the proposed development would not result in material harm to highway safety. I am also satisfied that pedestrian safety would not be materially compromised. Accordingly, there would be no conflict with Local Plan Policy ENV8 which seeks, amongst other things, to ensure development does not result in harmful impacts on general amenity including the impacts of traffic movements and car parking on highway safety.

Living conditions

14. The proposed development would be occupied by 5 separate households each coming and going at different times of the day and night, who may all have different lifestyles, each with their own work/social routines and with their own family and friends visiting. The submitted plans show the bedrooms to each flat would be double, so there is the potential for 10 people to come and go at any time of the day or night. This has the potential to cause undue noise and disturbance to occupants of the neighbouring property No.137 who are in closest proximity.
15. The submitted plans show the existing driveway of No.137 would be retained and as a result the proposed driveway has been moved a little further away from side elevation of No.137, compared to the previous scheme. Furthermore, it would no longer wrap around the rear garden, such that only one parking space would be immediately adjacent to the shared boundary with the garden of No.137.
16. Nonetheless, there is a back door and a number of windows that would directly face the boundary and proposed building, as well as the rear garden alongside the site boundary. All vehicles entering and exiting the proposed car park area to the rear of the site would still have to travel along the driveway and alongside the side elevation of No.137, as the previous Inspector noted. Whilst I saw a number of examples of driveways extending past properties' to garages in the rear gardens, these would only involve passing traffic from a single property, not a block of flats.
17. The proposed car park area would still be adjacent to the garden boundary of No.137, even if it doesn't wrap around it. There would still be noise and disturbance from engines, and likely associated noise and disturbance from car audio systems, voices and slamming doors. The constrained parking layout would also give rise to increased manoeuvring and turning of vehicles and hence extended engine noise in close proximity to the rear garden boundary of No.137. The car park area is still located beyond the rear elevation of No.137

such that occupiers of its habitable rooms would likely be disturbed by vehicles and people, particularly at night or early morning. Together with people entering/leaving the front door that faces the side of No.137, this would introduce noise and disturbance, potentially at any time of the day and night, when its occupants could reasonably expect some peace and quiet.

18. The submitted Noise Impact Assessment Report focuses on acoustic insulation of the apartments for future residents from traffic noise from the Kingsway North. No mention is made of the noise impact of the proposed development on adjacent occupiers by the comings and goings of future residents of the apartment block. The undercroft parking may well help reduce noise and disturbance from vehicles parked there, but the majority of parking and people movement would be in the open air. The replacement of the low fence with a 1.8m high timber fence along the driveway and parking area would go some way to reducing light from headlights and reduce some noise. However, these measures would not, in my view, be adequate to overcome the general noise and disturbance from the overall comings and goings.
19. Drawing all the above points together the proposal would likely cause unreasonable noise and disturbance beyond what existing occupiers could reasonably expect to enjoy, particularly early in the morning and late at night and cause unacceptable harm to the living conditions of occupiers of No.137. Accordingly the proposal would conflict with Local Plan Policy ENV8, which seeks amongst other things, to ensure development does not lead to an adverse impact on the amenity of occupiers of nearby properties with regard to noise.

Other Matters

20. I am aware of the objections from No.135. However from my reading of them they reiterate concerns relating to the previous appeal scheme rather than the appeal before me with the revised parking layout. Previous occupiers of No.137 have objected. The lack of representations from current occupiers of No.137 does not diminish the harm that I have identified.

Planning Balance and Conclusion

21. A decision on whether to grant permission must be made in accordance with the relevant policies in the development plan, unless there are material considerations, such as those in the Framework, which indicate otherwise.
22. The Council confirms that it has a 3.54 year supply of housing land and therefore cannot demonstrate a 5-year supply. Thus paragraph 11 d) ii) of the Framework is engaged. This means that planning permission should be granted, unless 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.
23. The proposal is for 5 apartments in a sustainable urban location. This would help reduce the Council's housing deficit and would accord with one of the Framework's aims of boosting housing supply. I give this great weight. It would be a more efficient use of land, which the Framework encourages. There would be a modest boost to the local economy connected with the construction of the development and in future expenditure by residents.

24. However, I have found there would be lasting harm to the living conditions of existing occupiers of the neighbouring property. This would be contrary to the Framework's aims of promoting good design with a high standard of amenity. This would be an adverse impact of granting planning permission that would, in my view, significantly and demonstrably outweigh the benefits I outline above when assessed against the policies in the Framework taken as a whole.
25. In conclusion, the proposal would conflict with local policies guiding the protection of amenities of neighbouring occupiers and so would conflict with the development plan as a whole. The absence of harm to highway safety carries neutral weight in the planning balance. The material considerations I outline above, including the Framework, are not sufficient to outweigh this conflict.
26. Accordingly, the appeal should be dismissed.

K Stephens
INSPECTOR