



Appeal Decision

Site visit made on 8 February 2024

by C Billings BA (Hons), DipTP, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 08 March 2024

Appeal Ref: APP/R0660/W/23/3328927

1A Russet Close, Crewe, East Cheshire CW1 4FR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Nick Reynolds, NAW Reynolds Building (Marthall) Ltd against the decision of Cheshire East Council.
 - The application Ref is 23/1962N.
 - The development proposed is retrospective application for change of use of single dwelling to 3 No. one bedroom flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal property has already been converted to three one bedroom flats, including two at ground floor and one at first floor level. I observed that all the flats are occupied and that the layout of the first floor flat, flat 3, varies from that shown on the proposed layout plan. Flat 3 includes two as opposed to one shower room, with one accessed from the bedroom and one from the kitchen/living space and that its bedroom and kitchen/living space are flipped in terms of their location, compared to that shown on the proposed plans.
3. A revised National Planning Policy Framework (the Framework) was published in December 2023 and is therefore a material consideration. Whilst the relevant sections of the new Framework have not changed in respect of the main issue of concern in this appeal, the paragraph numbering has changed. Accordingly, I have referred to the updated Framework paragraph numbering.

Main Issue

4. The main issue is whether the appeal scheme offers acceptable living conditions for the occupiers of the flats in terms of the provision of internal living space.

Reasons

5. The appeal property is a 1.5 storey high building, with single storey additions to either end. All the flats have shower rooms, a kitchen/living room space and 1 bedroom. Flats 2 and 3 have a double bedroom, and flat 1 has a single bedroom. Flat 3 is set within the roof space and has lower ceiling heights within parts of the kitchen/living space and the bedroom, which reduces the amount of useable floorspace in these rooms.

6. Policy HOU 8 of the Cheshire East Local Plan Site Allocations and Development Policies Document (adopted December 2022) (SADPD) requires proposals for new residential development to meet the Department of Levelling Up, Housing and Communities Technical housing standards - nationally described space standards (NDSS) (March 2015).
7. Whilst Policy HOU 8 of the SADPD states the NDSS standards will apply from six months after the date of the adoption of the plan, and the planning application was submitted in May 2023, in advance of the six month period, the Council's decision was made in July 2023. Also, it is necessary for me to have regard to the requirements of Policy HOU 8 at the time of my decision, which is more than six months since the SADPD was adopted. Furthermore, that all the flats are occupied and were at the time the Council made its decision, does not mean that the relevant NDSS, and the requirement for development to provide acceptable living standards, should not now apply.
8. The minimum Gross Internal Floor Area (GIFA) set out in Table 1 of the NDSS requires 1 bedroom, 1 person units to have a minimum of 39sqm, which may be reduced to 37sqm where there is a shower room instead of a bathroom. However, for 1 bedroom units with 2 person bedspaces, a minimum GIFA of 50sqm is required. Also, the NDSS sets out that any area with headroom of less than 1.5m is not counted within the GIFA, unless solely used for storage, and any areas solely used for storage and has a headroom of 900-1500mm is counted at 50% of its floor area, with anything lower than 900mm not counted at all.
9. The appellant's Planning Statement (May 2023) sets out that each of the flats are circa 41sqm. The Council however consider that the GIFA of flat 1 is 32sqm, flat 2 is 30sqm and, flat 3 is 38sqm. Notwithstanding the variance of opinion over the GIFA, flats 2 and 3 have a bedroom with a double bedspace and therefore the minimum standard GIFA should be 50sqm, which is not met by either party's stated GIFA. Also, whilst I have not been provided with any substantive evidence, from my observations, it is likely that the GIFA of flat 1 is below the minimum requirement of 37sqm metres for a 1 bedroom, single bedspace unit.
10. It has been put to me that the existing occupiers of the flats are content to live within the small units. However, not only are the NDSS not met, as observed during my site visit from the flats being furnished, I found them to feel cramped and oppressive. Due to the reduced ceiling height within flat 3, it particularly causes the bedroom and living space to feel small and restricted. Also, whilst flat 2 has a reasonable large double bedroom, with room for cupboards, the layout and size of its kitchen/living space is limited, with the bedroom accessed directly from the kitchen area and the living space only accommodating a desk/table and a chair and TV cabinet. Therefore, despite that the tenants have chosen to live within the flats, this does not outweigh the fact that the proposed flats fail to meet the NDSS or provide an acceptable standard of living accommodation.
11. In view of the above, as the GIFA of the flats is below the minimum requirement of the NDSS, the appeal scheme fails to provide acceptable living conditions for the occupiers of the flats in terms of the provision of internal living space, in conflict with Policy HOU 8 of the SADPD.

12. The Council also referred to Policy HOU 12 of the SADPD in their reason for refusal. This policy relates to amenity and sets out that development proposals must not cause unacceptable harm to the amenities of adjoining, nearby residential properties, or future occupiers of the development. Whilst the list in Policy HOU 12 does not include internal living space considerations, the policy states that reference should be made to other policies where relevant. Therefore, as I have found conflict with Policy HOU 8 of the SADPD, conflict also arises with Policy HOU 12 of the SADPD in this regard.

Other Considerations and Planning Balance

13. Notwithstanding that the development was carried out without the benefit of planning permission, as the flats are already occupied, I have had regard to Article 8(1) of the Human Rights Act 1998, which provides that everyone has the right to respect for their private and family life, their home, and their correspondence.
14. The appellant contends that the existing occupiers of the flats are happy to live within the small accommodation. Be that as it may, my decision has been made on consideration of the merits of the scheme and the development plan. Moreover, my experience of the appeal site is that it fails to create a high standard of living accommodation for the existing and future occupiers, contrary to the Framework. I have consequently found there would be conflict with the development plan in respect of the main issue.
15. I have born in mind whether there would be implications by my decision in terms of Article 8(2) of the Human Rights Act 1998. However, it would be for the Council to determine whether it would be expedient to issue an enforcement notice, and the requirements for compliance if it did.
16. The principle of additional housing within towns, particularly within the principal town of Crewe, is supported by Policy PG7 of the Cheshire East Local Plan Strategy 2010-2030 (July 2017) (CELPS). Also, the additional proposed small dwelling units would provide windfall housing and thereby contribute to the housing supply within the borough.
17. Policy HOU 1 of the SADPD promotes housing mix within housing developments. Although the appeal scheme does not include a housing mix, as all the proposed dwellings are one bedroom units, it would contribute to a mix of housing tenures and type and sizes within the borough, as supported by Policy SC4 of the CELPS.
18. Additionally, the appeal scheme is for the conversion of a previously developed building and so does promote the efficient use of land. Whilst I afford weight to the delivery of additional housing which promotes a mix of tenure and size, in an appropriate location and the efficient use of land, the internal floor areas of the flats are of a sub-standard size and therefore harmful in respect of living conditions.
19. That the appeal scheme does not include external alterations to the building and so, does not affect the character and appearance of the surrounding area, is a neutral consideration which, while not weighing against the appeal scheme, does not justify the harm I have found.
20. On balance, the benefits of the proposal, including housing delivery, would not outweigh the harm I have identified.

Conclusion

21. The appeal scheme conflicts with the development plan read as a whole and material considerations do not indicate that the appeal should be decided other than in accordance with it.
22. It cannot be conclusively determined that my dismissing the appeal would ultimately interfere with the occupiers' rights to a private and family life and home under Article 8(1) of the Human Rights Act 1998. On balance, I consider that my decision to dismiss the appeal on the basis of conflict with the development plan and the harm I have found in respect of the living conditions of the current and any future occupiers of the appeal site, is proportionate.
23. For the reasons given above, I conclude the appeal should be dismissed.

C Billings
INSPECTOR