



Appeal Decision

Site visit made on 11 March 2024

by A Hickey MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th April 2024

Appeal Ref: APP/Y1945/W/23/3327329

250 Lower High Street, Watford, WD17 2DB

- 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 Alejandro Munoz of Nazmo Ltd. against the decision of Watford Borough Council.
 - The application Ref is 22/01126/FULM.
 - The development proposed is demolish the existing vacant commercial building and erection of a six storey building comprised of 36 dwellings with associated development including amenity, refuse, cycle, car parking and plant space.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. I've taken the agreed-upon amended description of development from the decision notice, albeit removed wording that is not an act of development. I have also taken the site address from the decision notice, which also accurately reflects the appeal site location.
3. Where comments were received from the main parties on the latest National Planning Policy Framework (Framework) and Housing Delivery Test (HDT) results, I have taken them into account in my reasoning.
4. During the appeal process, the appellant provided a legal undertaking in relation to Controlled Parking Zones to address the Council's fourth reason for refusing the development. The Council has confirmed there is no longer any objection to the proposed development on these grounds, and I have therefore dealt with the appeal on that basis.

Main Issues

5. The main issues are the effect of the proposal on:
 - (a) the character and appearance of the area, including nearby non-designated heritage assets;
 - (b) the living conditions of neighbouring occupiers with particular regard to outlook and light at Crosfield Court and Local Board Road;
 - and (c) whether the proposed development would provide adequate living conditions for future occupiers with particular regard to sunlight, daylight and outdoor space.

Reasons

Character and appearance

6. The immediate context sees the appeal building sited adjacent Crosfield Court, a three and four-storey residential building that sits above and wraps around the site and appeal building to the side and rear. Situated opposite are a small number of older buildings on Local Board Road. Of these buildings 1a, 1-3 and the Pump House Theatre are all locally listed and which I also consider are non-designated heritage assets (NDHAs). They derive their significance, in part, from their simple traditional detailing, modest scale and grouping.
7. In the wider area, there is a mixed character with a variety of property types and sizes including more modern infrastructure such as the nearby car sales buildings and fire station, and older development of single and two storey development found nearby.
8. Near the appeal site, there is significant variation in building styles, materials and appearances. Nonetheless, buildings on this side and section of Lower High Street have a consistent rhythm to their position, being set back from the road, and consistency in scale, gradually increasing in height towards Crosfield Court. This relationship between buildings makes a positive contribution to the area's character and appearance.
9. The proposed development would replace the existing commercial building with an apartment building made up of 36 units. At my site visit, I observed how the appeal building sits comfortably between and assists in the transition of built form from the open car sales forecourt to the lower-level buildings found on Local Board Road and then upward to the more imposing Crosfield Court building, which visually dominates this section of the road despite its short set back from the appeal building.
10. The application site is located within the Colne Valley Strategic Development Area. Policy CDA2.3 of the Watford Local Plan (WLP) sets out a list of criteria of which criterion d) is the most relevant to this appeal. This requires development adjacent to existing residential areas to be designed to minimise the potential impact on these areas by providing a transition in built form between existing homes and higher-density development. The WLP does not define existing residential areas but as the nearby area contains a number of dwellings on Local Board Road and the large residential building known as Crosfield Court I find the appeal site is within an existing residential area regardless of development found beyond this area.
11. The proposed building would be both taller and have a greater forward projection than Crosfield Court emphasising its scale and massing within the immediate area, which would contrast awkwardly with the gradual transition of building heights found on this section of the streetscape. Positioning the building closer to the footway would restore some building frontage at the back of the pavement. However, the increase in height and projection would also give the appeal building an incongruously bulky emphasis. The appeal scheme would therefore dominate this elevation of Crosfield Court facing Lower High Street and views in and out of the surrounding area.
12. The proposed building would be further set in from the pavement and the nearby NDHAs but would take up the majority of the appeal site. Weighing

developments that indirectly or directly affect NDHAs requires a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.

13. Given the proximity of the NDHAs on Local Board Road, the building has been designed to have a lower level and recessed roof facing along the Road. The design would also see a mixed palette of materials and variation in fenestration design, which would assimilate well with the style and variety of building designs found nearby. However, intensifying the urban form above and outward occupying much of the site would make this short street feel substantially more enclosed. The proposed building would overwhelm the neighbouring NDHAs and, therefore, appear incongruous in this location and harm the setting of these heritage assets.
14. The proposal would accord with the building heights identified within table 6.1 of the accompanying text to WLP Policy QD6.5. Nonetheless, the supporting text also states the Colne Valley area has a greater sensitivity to building height which would match my findings above.
15. The appellant has drawn my attention to a scheme at 252-272 Lower High Street¹. I do not have full details of this scheme and have not been provided with details to show that the Council approved it or have any substantive evidence that it would be developed out. The example given at Frogmore House is located close to a prominent wide junction with more larger-scale buildings. In this regard, the examples given are materially different to the appeal proposal, and therefore I cannot draw any direct comparisons that weighs in favour of the proposal.
16. In combination, I therefore find that the proposal would result in substantial harm to the character and appearance of the surrounding area and the setting of non-designated heritage assets. It would fail to accord with Policies CDA2.3, QD6.1, QD6.2, QD6.3, QD6.4 and HE7.1 HE7.3 of the WLP. These, amongst other things, require new development, to be of a high quality design, visually attractive, relate well to local context and avoid harm to heritage assets and their setting. It would also be contrary to the Framework where it states developments should be well-designed, sympathetic to local character and avoid harm or loss to the significance of non-designated heritage assets.

Living conditions - neighbouring occupiers

17. The Framework suggests a flexible approach in applying policies or guidance relating to daylight and sunlight. The appellant submitted a daylight and sunlight Study² with the application (DSS). The DSS used the approach set out within Building Research Establishment (BRE) Report 209: Site Layout Planning for Daylight and Sunlight – a guide to good practice. Reference is also made to hearing report D&P/3067/03. I have not been provided with a copy of the report, but the section drawn to my attention relates to the inner city urban environment. As the appeal site is not within a city but a town it is not wholly relevant and in any event is only guidance.
18. The DSS highlights a shortfall against the recommended BRE Guidance for all properties on Local Board Road assessed within the report in terms of daylight. The scheme would create a slightly increased separation distance between the

¹ Ref: 22/00866/FULM

² Ref: 22-01187- Daylight & Sunlight Amenity (Neighbouring). Prepared by Rapleys dated August 2022

buildings on this section of Local Board Road. However, the appeal building would be both longer and taller facing these buildings making it appear considerably more oppressive and intrusive. This enclosing feeling would be further amplified by a reduction in daylight in reaching rooms within the properties.

19. The DSS, in regard to Crosfield Court, finds that 26 (87%) out of 30 relevant habitable rooms will fully comply with the daylight distribution result method assessment. However, the DSS notes four bedrooms fall short of the BRE suggested targets. I accept these rooms are identified as bedrooms, which the BRE recognises are generally less important in daylight terms. Nonetheless, Crosfield Court is a retirement complex, and residents are, in my view, likely to spend more time indoors and potentially in their bedrooms such that bedrooms should not be considered less important in this instance.
20. As occupiers within the apartments identified in the DSS are more likely to be using their bedrooms, loss of daylight would, in my view, have a detrimental effect on the enjoyment of these rooms which would feel enclosed and uninviting. While the occupiers would have access to an alternative habitable room, I am not persuaded that the appeal scheme would provide satisfactory conditions for all occupiers in Crosfield Court.
21. In reaching my findings I acknowledge that the DSS states where shortfalls are noted, they should be balanced against other planning considerations and the benefits of the proposal. One such highlighted benefit is a better visual outlook. However, as I have found the proposed development would harm the character and appearance of the area, this would not amount to a benefit. Moreover, while increased building heights are an objective of the WLP this should be achieved in the context of the surrounding area and should be designed to minimise the potential impact on existing homes.
22. My attention has also been brought to an allowed appeal³. While I do not have full details the scheme appears to be of a substantially greater scale and in a denser area. Therefore, while there may be similarities in terms of assessment types on nearby occupiers, this does not lead me to a different conclusion on the harms I have found.
23. Consequently, the proposed development would substantially harm living conditions for existing occupiers with regard to outlook and daylight. It would fail to accord with Policies CDA2.3 and CC8.5 of the WLP. These, in part, seek new development to protect the amenity of adjacent land uses and minimise potential impacts by providing a transition in built form. The proposal would also fail to accord with the provisions of the Framework and Watford Residential Design Guide (WRDG) in so far as they relate to providing a high standard of amenity for existing users.

Living conditions - future occupiers

24. WLP Policy QD6.4, amongst other things, seeks new buildings to include a high proportion of dual aspect units to create quality internal spaces, able to receive good light and, where possible, avoid using a single aspect form.
25. As a result of the site's long and thin profile, amendments taking into consideration the Council's comments and the proximity of Crosfield Court

³ Ref: APP/E5900/W/17/3171437

- many units will be single aspect. This will result in rooms being deeper but also potentially make rooms gloomier and require electric lighting for more of the time.
26. During the application process the appellant submitted a daylight and sunlight report⁴ (DSR) which identified 94 habitable rooms within the proposed development. Of these habitable rooms the appellant confirms 34 rooms fall short of the BRE recommendations, giving a compliance rate of 64%. Of these 34 rooms, 26 would be Living/Dining/Kitchens (LDKs). If an alternative target of 150 Lux were considered to be acceptable this would increase the compliance rate to 70%. The DSR also undertook a Sunlight Exposure (SE) test. This found that at least one habitable room for each proposed unit would meet the minimum criteria for 1.5 hours of direct sunlight on the 21 March (equinox).
27. In terms of daylight and sunlight, I accept that site constraints have resulted in various restrictions in terms of the building design, such that a reduced lux target is acceptable in these particular circumstances. In accepting a reduced lux target the DSR indicates all LDKs would achieve the recommended BRE guideline levels. However, that would still leave the development hosting a significant number of units with bedrooms with constrained levels of daylight. Moreover, there would also be rooms including an LDK that did not achieve the minimum criteria for 1.5 hours of direct sunlight.
28. The affected units would be likely to host many future occupants over the years and residents of those units would likely have an excessive reliance on artificial lighting within their apartments. The limited levels of daylight and sunlight to the habitable rooms of those apartments would be likely to have a moderate adverse impact on the living conditions of their future occupiers.
29. Policy H03.11 of the WLP requires all new homes to be provided with private outdoor amenity in accordance with the minimum standards set out in the policy table. Additionally, as the scheme comprises 36 units, high quality shared private outdoor amenity space is required. The Council have raised no objection to the provision of the shared amenity space and subject to a suitably worded condition I see no reason to disagree.
30. The appellant accepts that the proposed scheme would not accord with WLP Policy H03.11 minimum standards for private outdoor amenity space. The Council state 22 units (61%) fail to provide policy compliant high quality private amenity space. A figure not disputed by the appellant. While appreciating future occupiers desires for outdoor private space will vary, the provision of a satisfactorily sized area of useable private space is important to enable onsite recreational activity and for other outdoor requirements such as drying clothes.
31. For those units that fail to achieve the minimum standards, the amenity area would be small, with limited space to accommodate typical private outdoor activities. This would greatly limit the use that it could be put to, therefore not providing satisfactory private outdoor space. While the internal living space standards would be acceptable and as would access to the shared amenity space, this would not mitigate the inadequate private outdoor amenity space provision.

⁴ Ref: 22-01187- Daylight & Sunlight Amenity (Internal). Prepared by Rapleys dated November 2022

32. The appellant has stated they intend to submit an application for a permitted change of use under Class MA of the General Permitted Development Order (GPDO). No approval is before me to demonstrate the scheme is permissible under the provisions of the GPDO. In any event, the change of use of the building would be markedly different to the scheme proposed and does not lead me to reach a different conclusion on the lack of private amenity space.
33. Consequently, the proposed development, when considered as a whole, would substantially harm living conditions for future occupiers with regard to sunlight, daylight and private outdoor space. It would fail to accord with Policies HO3.10, HO3.11 and QD6.4 of the WLP. These, in part, seek new development to provide internal and external spaces that support the health and wellbeing of all those who use and experience them, including adequate provision of private amenity space. The proposal would also fail to accord with the provisions of the Framework and the WRDG in so far as they relate to providing a high standard of amenity for future users.

Planning Balance

34. The Council anticipates that it will be able to demonstrate the required 75% HDT figures for new dwellings when next published. However, the evidence before me indicates the current figure to be 73%. Therefore, the provisions of Framework paragraph 11d are applicable. Paragraph 11(d)(ii) of the Framework confirms that in circumstances such as these, planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
35. There would be economic and social benefits from the additional supply of housing and from the build and occupation of the properties. Given the scale of the scheme and in light of the delivery figures above, such benefits would be moderate. There would also be a small environmental benefit to biodiversity.
36. Even if I were to agree that there was no harm with regard to internal space provision, highway safety, contamination, or flood risk and that the site is in an accessible location, a lack of such harm would only be a neutral factor.
37. I have found there would be substantial harm to the character and appearance of the area and living conditions of nearby and future occupiers. The policies that the scheme conflicts with are broadly consistent with the provisions of the Framework. As such, and due to the degree of harm I have identified, I give the conflict with these policies substantial weight. The proposal conflicts with the development plan as a whole.
38. The proposal would align with the aim of the Framework to significantly boost the supply of housing in a sustainable location with access to services and facilities. It would accord with the economic policies of the Framework from the build and occupation of the dwellings and where it recognises that small and medium-sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. It would also align with the environmental objectives of the Framework to improve biodiversity and reduce carbon. Taking account of the scale of the scheme and the delivery figure, such benefits would be moderate. It would conflict with the Framework where it requires schemes to be sympathetic to local character,

conserve heritage assets, and provide a high standard of amenity for existing and future users. These conflicts attract substantial weight respectively.

39. Even with the level of shortfall in delivery, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Therefore, the scheme does not benefit from the presumption in favour of sustainable development as set out in the Framework.

Conclusion

40. The proposed development conflicts with the development plan when considered as a whole, and the Framework, and there are no material considerations, either individually or in combination, that outweighs the identified harm and associated development plan conflict.
41. Therefore, I conclude that the appeal should be dismissed.

A Hickey

INSPECTOR