



Appeal Decision

Site visit made on 23 April 2024

by K Townend BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16.05.2024

Appeal Ref: APP/M0655/W/23/3333701

25 Orford Green, Orford, Warrington WA2 8PE

- 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 M Dawbarn on behalf of DRB against the decision of Warrington Borough Council.
 - The application Ref is 2022/42504.
 - The development proposed is ground and first floor extensions to side and conversion of first and second floors to provide 6 number 1 bedroom apartments.
-

Decision

1. The appeal is allowed, and planning permission is granted for proposed first floor extension to side and rear and conversion of second floor with dormer windows to front to provide five number one-bedroom apartments at 25 Orford Green, Orford, Warrington WA2 8PE in accordance with the terms of the application, Ref 2022/42504, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The description of development in the banner heading above is taken from the submitted application form. However, it lacks clarity and certainty. The Council described the application, in their decision notice, as "Proposed first floor extension to side and rear and conversion of second floor with dormer windows to front to provide 6 number 1 bedroom apartments".
3. However, both main parties, in their Statement of Case, refer to the conversion to provide five number one-bedroom apartments and this reflects the proposed plans which have been submitted with the appeal. I have, therefore, assessed the proposal on this basis.
4. From the evidence before me there is no dispute between the parties as to the acceptability of the proposed extensions to the property, including the dormers, or to the principle of conversion. I shall therefore confine my detailed considerations to the proposed external area.
5. The Warrington Local Plan 2021/22-2038/39 (LP) was adopted by the Council on 4 December 2023 and replaces, in whole, the Warrington Borough Council Local Plan Core Strategy (CS). This appeal was received before the adoption of the LP and as such the LP, at that time was emerging policy and Policies from the CS were referred to in the decision notice.
6. However, the Council, in their Statement of Case, has advised of the policies in the LP which are now relevant to the determination of this appeal. The appellant has been provided with a copy of the LP and the Council's Statement

of Case and has chosen not to comment. Consequently, I have therefore assessed the proposal against the LP and given full weight to the LP in my decision. Neither main party has been prejudiced in me doing so.

7. A revised National Planning Policy Framework (the Framework) came into force on 19 December 2023 with a further change published on 20 December 2023. The Council's statement was submitted after this date and the appellant has been given an opportunity to comment through final comments. Having regard to this I do not consider it necessary to invite any further submissions from the parties on the revised Framework.

Main Issue

8. The main issue is whether the proposed development would provide acceptable living conditions for the future occupants of the proposed flats, with particular regard to external space.

Reasons

Living conditions of future occupiers

9. 25 Orford Green is a detached building on the corner of Orford Green and Birtles Road. The ground floor is in retail use and would remain so. The upper floors are currently used for storage and offices. The immediate surrounding area is residential housing with gardens. However, there are other commercial uses along Orford Green.
10. The proposal is for extensions and alterations to the first and second floor of the host property to enable conversion of these floors to provide five one-bedroom apartments. The proposal could, therefore, be occupied by up to 10 residents. The external area is shown to the side of the property and encompasses a small L-shaped area around the proposed entrance door to the apartments and up to the front elevation of the host building.
11. The plan indicates that the area could be laid out with bench seating, tables, and planting in pots. The area is already hard surfaced and is currently used as parking for the existing business.
12. Policy ENV8 of the LP, amongst other matters, requires all development to be designed so as not to result in harmful effects on levels of amenity. The Council has confirmed that there are no specific policies relating to the size of shared external areas and accept that the proposed area could be used by residents using the seating shown on the plan.
13. However, the proposed external space, albeit showing benches, tables and planting is small and awkward shaped. Moreover, it is proposed to enclose the area in 1.8-metre-high timber panel fencing. The resultant space would be enclosed on all sides by either fencing or the existing building. It, therefore, would be likely to be in shade for the majority of the day.
14. The proposed plan also indicates a parking space next to two sides of the external area and it is not clear whether these spaces are to be allocated to the residents of the apartments or would be used by staff and customers of the existing retail unit. Even if these spaces are for the occupants of the apartments the proximity of these spaces, and the access to the retail unit car

park, would result in noise, vibration, and general disturbance to the users of the proposed external space.

15. Overall, the proposed external space on site would be limited in size, awkward shaped and adversely affected by being positioned next to car parking. However, it would provide a small area for residents to use which would be private and secure. Moreover, the space would not be affected by noise and disturbance in the evenings and late Sunday afternoons after the retail unit is closed.
16. The appellant has drawn my attention to the location of Orford Park which I visited during my site visit. Orford Park is approximately five minutes' walk from the appeal site along roads with pavements. The park has play areas, sports pitches, and areas of open grass.
17. Although the site is located in a suburban area, where gardens are part of the character of the area, the appeal site is an existing commercial use and is constrained by the size of the site and position of the existing building. The conversion of the upper floors would provide economic and social benefits in providing additional housing. Furthermore, in my judgement the site could not provide any additional outdoor space for the future residents that would not cause harm to the character of the street scene, by enclosing more of the frontage of the site, or result in loss of additional parking.
18. Orford Park is close enough to the appeal site to comfortably walk and the facilities within the park would provide for both formal and informal recreation. The future occupants of the proposed apartments would have access to green space and play areas within easy walking distance which would provide space for other activities other than just sitting out.
19. I have not been made aware of any policies within the LP that prevent the consideration of nearby parks and facilities in suburban areas. Given the constraints of the site, and that the proposal is for conversion of the upper floors of a retail unit, I consider that it is reasonable to rely on Orford Park to provide additional space to the small area proposed within the site.
20. For the above reasons, I find that, although the proposed external space is limited in size and is in a location where it would be affected by cars using the car park, the proposal provides some external space and is also close to a public park and recreational area that the future occupiers of the properties could utilise. Consequently, the proposal would provide acceptable living conditions for the future occupants of the proposed flats, with particular regard to external space. I, therefore, find no conflict with the requirements of Policy ENV8 of the LP.

Other Matters

21. I acknowledge the concerns raised by local residents in relation to traffic, parking, pedestrian safety, noise, air pollution and overlooking. However, based on the submitted plans, the evidence before me, and my site visit, I find no reason to disagree with the Council's conclusions on these matters.

Conditions

22. The Council has provided a list of conditions that it considers would be appropriate and the appellant has had an opportunity to comment. I have

considered these in light of the Framework and the Planning Practice Guidance, and I have undertaken some minor editing and rationalisation of the conditions proposed by the Council in the interests of precision and clarity.

23. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of certainty. In order to ensure the satisfactory appearance of the development I have included a condition requiring the materials to be as indicated on the application form.
24. To ensure that the living conditions of the future occupants of the residential units are not adversely affected by noise from the car park and road it is necessary to upgrade the windows to habitable rooms and to provide mechanical ventilation. However, I have combined the two conditions suggested by the Council into one.
25. The parking area would need to be formally laid out so as to ensure that there is sufficient parking and manoeuvring space for the residential properties and for the retail unit, including ensuring space is available for servicing the retail unit. As such I have included a condition to require this to be carried out. To ensure that appropriate provision for current and future electric and electric/hybrid vehicles and encourage more sustainable means of transport, in accordance with Policy INF1 of the LP, a condition requiring electric vehicle charging facilities is reasonable.
26. To ensure that the external space does not harm the character and appearance of the area I have included a condition requiring the details of the means of enclosure, hard surfacing, and minor structures. However, given the scale of the proposal the soft landscaping of the external area would be of a domestic scale and maintained by the future occupants of the properties. I have, therefore, not imposed the requested soft landscaping and planting elements of the landscaping condition.

Conclusion

27. For the reasons given above the appeal should be allowed, subject to the conditions set out.

K Townsend

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: location plan ref 111/21/LP, block plan ref 111/21/BP rev B, external amenity plan ref 111/21/EAP, proposed first and second floor plans drawing 111/21/6 rev B, proposed south and west elevations drawing 111/21/7 and proposed north and east elevations drawing 111/21/8.
- 3) The external surfaces of the development hereby permitted shall be constructed in the materials as detailed on the application form.
- 4) The building shall be adapted so as to provide sound insulation against externally generated noise in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority. The scheme shall include:
 - a. the uprating of all habitable room windows (lounges and bedrooms) to achieve in excess of 35dB Rw+Ctr;
 - b. the provision of acoustically treated mechanical ventilation to each unit. Where the ventilation system includes trickle vents then these must have an acoustic performance in excess of 38Dnew.

The sound insulation works shall be completed prior to the occupation of any of the residential units and retained thereafter.

- 5) No residential unit shall be occupied until space has been laid out within the site for cars to be parked, for the servicing of the retail unit, and for vehicles to turn so that they may enter and leave the site in a forward gear. That space shall thereafter be kept available at all times for those purposes.
- 6) A scheme for the provision of electric vehicle charging points, or passive provision, shall be submitted to and agreed in writing with the Local Planning Authority. The agreed scheme shall be provided prior to the first occupation of any of the residential units and retained as such thereafter.
- 7) Prior to the first occupation of any of the residential units, details of hard landscaping works shall have been submitted to and approved in writing by the local planning authority. These details shall include means of enclosure; hard surfacing materials; minor artefacts and structures e.g. furniture, refuse or other storage units, signs, etc. The landscaping works shall be carried out in accordance with the approved details before any part of the residential development is first occupied and shall thereafter be maintained.

*** END OF CONDITIONS ***