



Appeal Decision

Site visit made on 7 May 2024

by J Pearce MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th June 2024

Appeal Ref: APP/Y1945/W/23/3331145

36 Market Street, Watford, Hertfordshire WD18 0PY

- 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 Khalid Benwalid against the decision of Watford Borough Council.
 - The application Ref is 23/00713/FUL.
 - The development proposed is to demolish disused extensions and outbuildings, construct new double and single storey rear extensions and loft conversion and convert to retail shop unit, 2 self contained flats and 3 HMO rooms.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. The revised National Planning Policy Framework (the Framework) was published in December 2023. However, the changes to national policy arising from it are not relevant to the areas of dispute for this appeal. Accordingly, I have not sought comments from the main parties about this matter.
3. Following the Council's decision, the 2022 Housing Delivery Test results were published. In 2021, housing delivery stood at 48%, whereas the latest results stand at 73%. The presumption in favour of sustainable development remains applicable as a result, and thus I have not sought further views of the parties in respect of this matter.

Main Issues

4. The main issues are:
 - whether suitable living conditions would be provided for future occupants of the proposed development, with regard to outlook and the provision of internal space and outdoor amenity space; and
 - the effect of the proposed development on on-street parking.

Reasons

Living conditions

5. The appeal site is in a terrace of properties fronting Market Street. The terrace is within the town centre with commercial premises at ground floor level. Development extends to the back of properties in Market Street limiting external space to the rear.

6. The proposal includes an extension to the rear with a studio flat at ground floor level. The outlook from the principal, rear opening of the studio would be limited due to the enclosure of the patio by a high boundary fence. The proximity of the high fence and the wall beyond it, which forms the boundary of properties fronting Percy Road would result in a poor outlook for future occupants of the studio. While a roof window and a high-level window in the side elevation would provide additional sources of natural light to the studio flat, they would not provide sufficient outlook to compensate for the lack of outlook to the rear. The outlook from the high-level window in the side elevation would be limited by its proximity to No 34 Market Street (No 34). My attention is drawn to a development for a similar ground floor flat at No 34, which was allowed at appeal¹. However, while I have only limited details of this development, I note that the rear garden has a greater depth than that within the appeal proposal and thus it is not directly comparable.
7. The first-floor window that would serve the kitchen and living room of the proposed first floor flat would be non-opening and fitted with obscure glazing up to a height of 1.7 metres above the internal floor level to prevent overlooking of the properties to the rear. In addition to the opaque glazing within the upper part of the window, the room would have two roof windows that would provide natural light and, with the windows in the bedroom and toilet, future occupants would have some outlook. Nonetheless, future occupants would have a very limited outlook due to the predominantly obscure glazing within the rear window. The restricted outlook overall would be exaggerated given that the window would serve the main habitable space within the accommodation.
8. The appellant has highlighted several other developments where schemes have been permitted with first floor obscure glazed windows. While the details provided are limited, I note that the windows in these cases typically serve bedrooms and bathrooms rather than kitchen and living rooms such as within the appeal proposal. In any event, each proposal should be considered on its individual merits and with appropriate regard to the development plan and any material considerations.
9. A three-bedroom house in multiple occupation (HMO) is proposed at first and second floor level. The bedrooms would exceed the Council's Environmental Health Guidance on HMOs in respect of room sizes, which requires bedrooms to have an area of 8 square metres. However, the kitchen would be cramped with limited communal space for future occupants to dine or socialise within a private setting. No communal or dedicated living space would be provided elsewhere, such that it is likely that the occupiers would be mostly confined to bedrooms. Consequently, the proposal would provide a poor standard of accommodation internally for future occupants of the HMO.
10. Policy HO3.9 of the Watford Local Plan 2021-2038 (WLP) requires appropriate amenity space to be provided while Policy HO3.11 of the WLP requires 1-bed apartments to be provided with 5 square metres of private outdoor space and 8 square metres for 3-bed apartments. Neither the first floor flat, nor the HMO accommodation would be provided with outdoor space. The site is in the town centre where there would be places to socialise, and future occupants could use public open spaces, including Cassiobury Park. However, the open spaces

¹ APP/Y1945/W/20/3249245

identified are neither close to the site, nor would they amount to the private outdoor amenity space as required by Policy HO3.11 of the WLP.

11. The appellant has referred to No 8 Market Street and No 10/12 Market Street where permission has been granted for development with no outdoor amenity space. While these other properties are within a town centre location, I have not been presented with the full details of these other schemes and cannot make a reasonable comparison. Nevertheless, given that the proposed first floor flat would not be provided with sufficient outlook and the HMO would not have adequate internal space, the lack of outdoor amenity space would accentuate the poor living conditions.
12. Access to the proposed flats and HMO would be gained via an existing alleyway, which is used by existing occupants at No 36 Market Street and is shared with No 34. The passageway is short and is of an adequate width to provide suitable access for both existing and future occupants of the site and the neighbouring properties.
13. I conclude that the proposal would not provide suitable living conditions for future occupants of the development in respect of outlook, internal space and outdoor amenity space. The scheme would therefore conflict with Policies QD6.4, HO3.9 and HO3.11 of the WLP, which collectively require proposals to create quality internal spaces and appropriate private amenity space, and the Framework, which requires a high standard of amenity for existing and future users.

Parking

14. The appeal site is located adjacent to the back edge of the pavement to one side of Market Street. Properties in Market Street are not typically provided with off-street parking. There is a controlled parking zone (CPZ) in the area where on-street parking is controlled by permits. Without restrictions, each residential unit in the development would be entitled to two parking permits.
15. The proposal would not provide off-street parking spaces. This would place increased demand on the extremely limited parking available in the surrounding road, in particular Market Street given that the proposal could generate additional traffic due to the increased number of residents resulting in a rise in demand for parking. Consequently, this would materially impact on the availability of convenient parking spaces in the vicinity of the site.
16. The supporting text to Policy ST11.1 of the WLP clarifies that for low levels of on-site car parking to work most effectively it needs to be combined with on-street parking restrictions. It continues to state that CPZs are well established in the borough, and that new development should not increase parking demand and users will therefore be exempt, or subject to restriction, from obtaining permits for existing CPZs. In light of the circumstances outlined above, and given that the site is accessible in respect of everyday facilities and services, ensuring that the proposal would be a car free property would be necessary to make the development acceptable in planning terms.
17. The appellant has indicated a willingness to complete a Unilateral Undertaking (UU) exempting future occupiers of the development from entitlement to parking permits for the controlled parking zones in the vicinity of the site. Furthermore, I appreciate that the appellant has sought to discuss the terms of

a UU with the Council. Nonetheless, no completed UU has been provided in support of this appeal. No other means of addressing this has been put forward. Without a mechanism to ensure that future occupiers of the development would not be automatically entitled to parking permits, the development would lead to a harmful increase in pressure for on-street parking in the area.

18. I conclude that the proposal would result in unacceptable impact on the availability of on-street parking. The development would therefore conflict with Policy ST11.1 of the WLP, which requires proposals to contribute towards sustainable and active travel behaviour.

Planning Balance

19. The Framework does not change the statutory status of the development plan as the starting point for decision making. The proposal is not in accordance with the aforementioned policies of the WLP, with the associated conflict reflecting unsuitable living conditions for future occupants of the proposal and unacceptable impact on the availability of on-street parking. The development conflicts with the development plan as a whole and should be refused unless other material considerations indicate otherwise.
20. Paragraph 11 d) of the Framework requires that, due to the Housing Delivery Test results, 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.
21. The proposal would make a positive contribution to housing delivery and supply with associated social and economic benefits during the period of construction and once the dwellings are occupied. However, the contribution of one additional dwelling and HMO accommodation to meeting housing need in Watford through a more efficient use of land in an urban area and the associated benefits are limited by the scale of development proposed, even in context of the Council's housing delivery issues.
22. The fans and extractor machinery to the rear of the existing building would be removed due to the change of use of the ground floor restaurant. This would result in an improvement for occupants of neighbouring properties due to a reduction in noise and odour. Nevertheless, while the total removal of odour pollution at the site would be beneficial, the effect of this and the level of noise reduction would be limited by the site's busy town centre location where there are several other sources of noise and odour pollution in the vicinity of the site.
23. In addition, the proposal would replace existing extensions and outbuildings to the rear of the site. While this would represent a visual enhancement of this part of the site, the benefit would be minimal given the position to the rear where public views are limited.
24. In the particular circumstances of this case, the adverse impacts would therefore significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole.

Conclusion

25. The proposal conflicts with the development plan when considered as a whole. Material considerations do not indicate that a decision should be made otherwise than in accordance with the development plan. For the reasons given above I conclude that the appeal should be dismissed.

J Pearce

INSPECTOR