



Appeal Decision

Site visits made on 3 June 2024 and 22 July 2024

by R Major BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2024

Appeal Ref: APP/M0655/W/24/3337375

The Factory, Smith Street, Warrington WA1 2NS

- 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 Paul Hargreaves on behalf of J&P Estates against the decision of Warrington Borough Council.
 - The application Ref is 2022/41779.
 - The development proposed is part two storey/part three storey extension to provide dedicated office facilities.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant's name in the above banner heading is taken from the planning application form.
3. I have removed the words '*resubmission of application ref: 2021/39515*' from the description as this does not constitute an act of development.
4. I undertook the original site visit on 3 June 2024. However, a further site visit was undertaken on 22 July 2024 where I was provided with access to the external areas within the nearby property at Charles Forbes Court.
5. Since the Council made its decision on the planning application a new Local Plan¹ has been adopted and the revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. As the planning application was assessed against the now superseded Local Plan Core Strategy², the policies referred to in the reasons for refusal have been replaced. The Council sets out the relevant Local Plan policies within their submission and therefore I shall refer to the new Local Plan policies accordingly taking into account the revised Framework and all comments received.
6. On 30 July 2024 the Government published a consultation on "Proposed reforms to the NPPF and other changes to the planning system" and the "National Planning Policy Framework: draft text for consultation". A Written Ministerial Statement entitled "Building the homes we need" was also published on 30 July 2024.

¹ Warrington Borough Council Warrington Local Plan 2021/22 – 2038/39, Adopted December 2023.

² Warrington Borough Council Local Plan Core Strategy, Adopted July 2014.

7. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. I have therefore had due regard to these publications in my determination of this appeal and the main parties were given the opportunity to comment on these publications. I have taken into account any comments raised.

Main Issues

8. The main issues are the effect of the proposed development on:
- the living conditions of neighbouring occupiers, with particular regard to outlook; and
 - the character and appearance of the surrounding area.

Reasons

Living conditions

9. The appeal proposal seeks to increase the height of an existing single-storey mixed-use office and storage building, to create a three-storey flat roofed building, within Warrington town centre.
10. Directly to the south of the appeal site is the retirement housing complex at Charles Forbes Court. This retirement complex has an outdoor courtyard area close to the boundary shared with the appeal site. There is currently a brick wall, covered in ivy, along this shared boundary, which partially screens views of the buildings on the appeal site from this courtyard area. The other sides of the courtyard are enclosed by the retirement complex building.
11. I observed on site that this pleasant and attractive external courtyard area included features such as paved paths; a paved patio area including benches, tables and chairs; grassed areas; raised flower planting areas; potted plants and a silver birch tree.
12. I also observed that the courtyard area is accessed from a communal room within the retirement complex and given the existing outdoor furniture, and its well-kept appearance, it is reasonable to conclude that this courtyard area is used by residents of the complex. It is therefore likely that this courtyard area makes a positive contribution to the health and wellbeing of occupants of the retirement complex.
13. The proposed extension, to create a three-storey building, would be significantly taller than the existing ivy-covered wall along the boundary, and would be clearly visible from within this courtyard area. As a result of its siting, width, significant height and bulk, the proposed extended building would have a detrimental impact upon the living conditions of occupiers of this retirement complex by creating an overly oppressive, dominant and overbearing feature for users of this external courtyard, resulting in a loss of outlook from this area. These impacts are only exacerbated by the close proximity of the building to be extended and this courtyard area.
14. As a result, the enjoyment occupiers of the retirement complex currently experience within this courtyard area would be negatively impacted by the proposed extension. In particular, the outlook from the patio area, which is

located close to the shared boundary and contains a number of tables and chairs, would be significantly negatively impacted.

15. In coming to the above view, I note that the courtyard area is already enclosed on all sides, however the proposed extension to create a three-storey building would result in a substantially taller structure than the existing wall, creating a significantly more oppressive, dominant and overbearing feature than currently exists.
16. I acknowledge that the existing silver birch tree would provide some partial screening of the proposed extended building. However, it would not screen the majority of the appeal proposal and the substantially greater mass, height and bulk of the extended building would have a significantly greater impact on the outlook from the courtyard area than this existing tree.
17. I note the proposed development would not span the full width of the courtyard area and views would be provided either side of the extended building. Furthermore, as a result of the orientation the proposal would not result in the loss of a significant amount of sunlight to this courtyard area. Nevertheless, the extended building would represent an oppressive and overbearing feature when viewed from this courtyard area and would be sited directly adjacent to the paved patio area, which is the area of the courtyard most likely to be used by residents.
18. The appellant has commented that the way the patio area is arranged means that users would likely be looking away from the proposed development. While I noted that some benches are positioned with their backs facing towards the appeal site, other tables and chairs within the patio area do face towards the appeal site. Furthermore, as a result of its height, width, bulk and relatively central position in relation to the courtyard, the proposed extended building would clearly be visible and prominent from various locations within this courtyard area.
19. The appellant has drawn my attention to other larger areas of outdoor amenity space within the adjacent retirement complex. However, having visited these other external areas they consisted purely of grassed land and trees, with no patio or seating areas. As such, it was apparent from my site visit that these other areas were not utilised in the same way as the courtyard adjacent to the appeal site is used. Furthermore, the courtyard adjacent to the appeal site is accessed via a door from the communal lounge area, which has large windows overlooking this external area. As such, given the existing layout of the retirement accommodation building, the courtyard area adjacent to the appeal site would appear to be the most practical and logical external area for residents to use.
20. The appellant has also made reference to extensions which have been approved at 6–8 Smith Street (Nos. 6-8), commenting that the appeal proposal would be lower than this neighbouring building and thus have less of an impact on occupiers of the retirement complex. I acknowledge that the extensions at Nos. 6-8 result in a building that is taller than the appeal proposal, and that this neighbouring building is visible from the courtyard area of the retirement complex.
21. However, the building at Nos. 6-8 is not situated directly to the rear of this courtyard area and this significantly reduces its impact upon the occupiers of the retirement complex. As such, and in my judgement, the extensions at Nos. 6-8 do not have the same impact upon the living conditions of the occupiers of the

retirement complex as the appeal proposal would and is therefore not directly comparable.

22. In view of all the above, the appeal proposal would have an unacceptable adverse impact upon the living conditions of the occupiers of the neighbouring retirement complex by way of creating an overly oppressive, dominant and overbearing feature, resulting in a loss of outlook from the adjacent external courtyard area. The proposal is therefore contrary to Policies DC6 and ENV8 of the Local Plan. These policies together seek to ensure, among other things, that all developments do not have an unacceptable adverse impact on the amenity of neighbouring occupiers and land users, and respect the living conditions of existing neighbouring residential occupiers in relation to outlook.
23. The proposal is also considered to be contrary to paragraph 135(f) of the National Planning Policy Framework (the Framework) which seeks to ensure developments provide a high standard of amenity for existing users.

Character and appearance

24. The existing single-storey structures on the appeal site currently comprise of a mix of different designs, sizes and material finishes. Some of the buildings have a dual-pitched tiled roof design, whereas others have metal sheet sloping roofs. They are mostly finished in a light-coloured render, however the main section of the building that is to be extended as part of the appeal proposal has a cream painted brick finish to its external front elevation.
25. Together the collection of buildings on the appeal site do not make a positive contribution to the character and appearance of the wider area. However I also acknowledge that they are functional, back-street, buildings that were likely designed to be used as storage and workshop buildings.
26. Directly to the east of the appeal site is the recently altered property at Nos. 6-8, and on the opposite side of Smith Street are the rear elevations and yard areas of the terraced properties fronting onto Buttermarket Street.
27. The appeal proposal seeks to extend the centrally located, single-storey building, and increase its height to three-storeys, with a flat roof design. The height, shape and design of the building would be in keeping with the variety of building styles in this town centre location, particularly the adjacent flat-roof building at Nos. 6-8.
28. With regard to materials, the submitted details explain that the extended ground floor, along with a section of the first floor, would be finished in facing brick to match the existing building. The remainder of the first floor, and the entire second floor, would be finished in rainscreen cladding, with a pressed aluminium coping on top of the proposed parapet wall at roof level. The extended building would also include significant levels of new glazing in its front and side elevations.
29. I observed that from the appeal site a wide variety of material finishes can be seen. The most prominent building viewed from the appeal site is the large stone built Roman Catholic Church of St Mary, however the most common building materials on Smith Street are facing brick, painted brick and render.
30. Beyond Smith Street the surrounding area consists of an even wider range of building materials, including the large buildings on the opposite side of Mersey

Street which are constructed in a mixture of brick and cladding. As such, whilst I acknowledge the predominant material finish in the area is brick, along with painted brick, there is a wide-ranging material palette within the vicinity of the appeal site. As such, the use of a mixture of both brick and cladding within the appeal proposal would be reflective of the materials I observed within the area.

31. The Council has commented the appeal proposal results in a disconnected design, primarily as a result of the three different material types to be used. However, as detailed above, the appeal proposal consists of two main materials, brick and cladding, with the inclusion of a pressed aluminium coping to the roof being a minor element of the proposal which is unlikely to be prominent from street level. Furthermore, I observed that the adjacent neighbouring building at Nos. 6-8 currently consists of three distinctly different material finishes, consisting of brick, white render and a dark grey render.
32. The Council has drawn my attention to the Warrington Town Centre Supplementary Planning Document (2021) (SPD) which states that the predominant building material in Warrington is brick and this should be used rather than cladding, render or concrete as the main facing material. The SPD also advises that development should have a limited palette of facing materials and colours. Whilst I acknowledge the content of the SPD, it is guidance rather than policy, and in any case the appeal proposal does include brick as one of the two predominant materials. Furthermore, and as detailed earlier, I saw examples of buildings containing cladding within the vicinity of the appeal site, as well as various buildings finished in a number of different materials.
33. The Council's submission also makes reference to the Warrington Design Guide SPD (Draft December 2023) (Design Guide SPD). However, the Council's submission does not draw my attention to any specific section or part of this document that the appeal proposal would conflict with. Having reviewed the Draft Design Guide SPD, I find the appeal proposal complies with the requirement for elevations to be designed using materiality to add interest and to be reflective of the character of the area.
34. In view of all the above, I conclude that the design of the appeal scheme, including the proposed materials, would not have a harmful impact upon the character and appearance of the surrounding area. As such, I find no conflict with Policies DC6, ENV8 and TC1 of the Local Plan, insofar as they together seek to ensure, among other things, that developments make a positive contribution to local character, use a palette of high-quality materials appropriate to local context and do not result in a harmful impact on the built environment.
35. I also find no conflict with the requirements of the Framework where it seeks to ensure that developments are visually attractive and sympathetic to local character, including the surrounding built environment.

Other Matters

36. To the northwest of the appeal site, at the end of Smith Street and facing onto Buttermarket Street, is the Grade II Listed Roman Catholic Church of St Mary. In determining this appeal I therefore have a statutory duty, under Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

37. The church has historic value arising from its age dating back to 1877, communal and evidential value by way of its historic cultural use as a place of worship. The building also has architectural and aesthetic value derived from its gothic revival style, constructed in pale stone with elements of red sandstone. Overall, this nationally designated listed building has a high level of significance.
38. The existing single-storey structures on the appeal site, as a result of their size in comparison to surrounding buildings, do not currently have a significant impact upon the setting of this nearby listed church. The appeal proposal would increase the height of the centre building to three-storey in height. However, with its flat roof design the proposed building height would be in keeping with that of surrounding buildings, and would be lower than the adjacent property at Nos. 6-8.
39. Furthermore, given the high density of surrounding buildings, the appeal proposal would be predominantly screened from many public viewpoints towards the listed building by a combination of the listed building itself, the row of terrace properties on Buttermarket Street and the adjacent taller property at Nos. 6-8.
40. I acknowledge that from closer sections along Smith Street the appeal proposal would be seen in context with the listed building, however this is a short street and views are dominated by the larger listed church building, and the property at Nos. 6-8, which are both situated at either end of this street. Additionally, and as detailed earlier, I find that the overall design and appearance of the appeal proposal, including the materials, to be acceptable in this town centre location.
41. In view of the above, I conclude that the appeal proposal would not compromise the setting of this listed building, thereby preserving its setting and its features of special architectural and historic interest.
42. The appeal site is not located within a conservation area. However, the boundary of the Buttermarket Conservation Area (the CA) is situated on the opposite side of Smith Street, incorporating the aforementioned listed church, as well as the row of terrace properties on Buttermarket Street whose rear elevations face towards the appeal site. Furthermore, to the southeast is the Borough Arms Public House (PH), which is locally listed and therefore a non-designated heritage asset (NDHA).
43. The significance of the CA largely derives in part from it being the main approach to the town centre from the east, the high level of significance provided by the Grade II Listed Roman Catholic Church of St Mary, as well as it containing several attractive Georgian properties.
44. I also observed that an interesting feature of the CA includes the variety of building styles and designs, including varying heights, as well as the irregular pattern and positioning of buildings in relation to the surrounding streets, with some properties set back significantly, some set up to the footway, and others somewhere in between. These varying setbacks of the properties from the streets is a positive feature as it allows for wider views of some of the most positively contributing buildings within the CA.
45. The appeal site, facing towards the rear elevations of the properties fronting on to Buttermarket Street, makes a very limited contribution to the setting of the CA. As such the appeal proposal would have a very limited affect upon the

significance of the heritage asset as a whole, and would not harm the setting of the CA.

46. The nearby PH, which is a NDHA, occupies a corner plot with its attractive front and side elevations fronting onto Buttermarket Street and Mersey Street. Its rear elevation, facing onto Smith Street, includes very limited architectural detailing and features such as the flat roof rear extension and external metal staircase somewhat detract from this otherwise attractive building. The appeal proposal would have no impact upon the front and side elevations of this PH, and thus would cause no harm to this NDHA.

Planning Balance

47. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations, including the Framework, indicate otherwise.
48. I note that within their Statement of Case the appellant has made several references to the requirements of paragraph 11(d) within the Framework. However, I have no evidence that paragraph 11(d) applies in relation to this appeal.
49. The appellant has drawn my attention to the relevant policies of the Local Plan, and sections of the Framework, which are supportive of commercial developments and encourage economic growth. I have also had due regard to the Written Ministerial Statement entitled "Building the homes we need" and the "National Planning Policy Framework: draft text for consultation" in respect of these matters.
50. With these in mind I note the appellant's comments that the appeal proposal would provide economic benefits through supporting the expansion of the company, creating additional floorspace, job opportunities and spend within the area. As well as being needed to secure existing jobs and allow another nearby site owned by the appellant to be developed. In addition, short-term economic benefits would also arise during the construction phase of the development.
51. Furthermore, the appellant has stated that the proposal would assist the company with its rollout of Smart Home technology which will provide wider environmental benefits.
52. Whilst I have limited information before me that the appeal proposal is the only way to achieve the company's expansion; to secure jobs; enable the development of another site and assist with the rollout of Smart Home technology, these are nevertheless benefits which I give modest weight in favour of the appeal scheme.
53. The appellant has also commented that having staff on one larger site would reduce carbon emissions from vehicles moving between sites. Again, I have limited information before me as to how many vehicle movements currently take place between sites and the impact of this on the environment. Furthermore, there is no mechanism before me to secure that the appellant would not continue to operate from more than one site if the appeal scheme was allowed. Therefore, on the evidence before me, I attach limited weight to this purported benefit.

54. Whilst I have found that the design of the appeal proposal is acceptable, this is a neutral matter that neither weights in favour, nor against, the appeal scheme.
55. In view of the above, the proposed benefits of the appeal scheme do not outweigh the conflict I have identified by way of the unacceptable adverse impact the appeal proposal would have upon the living conditions of the occupiers of the neighbouring retirement complex.

Conclusion

56. The proposal conflicts with the development plan when taken as a whole and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

R Major

INSPECTOR