



Appeal Decision

Site visit made on 10 September 2024

By Terrence Kemmann-Lane JP DipTP FRTPI MCMi

an Inspector appointed by the Secretary of State

Decision date: 3 October 2024

Appeal Ref: APP/J1915/W/24/3336977

38 North Street, Bishop's Stortford, CM23 2LW

- 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 Leslie Paul against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/0239/FUL.
 - The development proposed is roof extension & alterations to create a second floor comprising 2 x one bedroom flats, part change of use of ground and first floor from class E (shop) to C3 (residential), two storey rear extension including new bin store and new entrance door to south elevation.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are: i) the effect of the proposed roof extension on the character and appearance of the existing building, streetscene and the Bishop's Stortford Conservation Area; and ii) the standard of amenity for the future occupiers of the proposed residential units.

Reasons

3. The site is occupied by a part one, part two storey building on the corner of North Street and Water Lane within the town centre and the Bishop's Stortford Conservation Area. It is also located in a Primary Shopping area and the Secondary Shopping Frontage, and falls within the Neighbourhood Plan Area for Silverleys and Meads Wards.

The effect on the character and appearance of the existing building, streetscene and the Bishop's Stortford Conservation Area

4. Since the site is situated within the Bishop's Stortford Conservation Area, there is a statutory duty under section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 to ensure that development proposals preserve or enhance the character or appearance of the conservation area. The appeal building is referred to in the Bishop's Stortford Conservation Area Appraisal, wherein it states "*No. 38 North Street, Edwards Interiors. 19th century single storey shop of painted brickwork, pilasters with decorative capitals supporting parapet. It is important that such architectural detailing is preserved and retained. Formal protection is provided by existing planning controls.*"

5. The policies of East Herts District Plan that are of particular relevance are HA2 'Non-Designated Heritage Assets' and HA4 'Conservation Areas'. Policy HA2 essentially requires preservation and enhancement of the historic environment and that proposals that lead to harm to a designated heritage asset will not be permitted unless public benefits outweigh the harm. Policy HA4 states that *"New development, extensions and alterations to existing buildings in Conservation Areas will be permitted provided that they preserve or enhance the special interest, character and appearance of the area"*, subject to certain expectations.
6. A material consideration of importance is the National Planning Policy Framework (NPPF), the latest edition of which was published in December 2023. Paragraphs 205 – 214 are relevant, particularly paragraphs 205 – 209. The last of these states: *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset"*.
7. The appeal building, No.38 North Street, is a non-designated heritage asset (NDHA), occupying a prominent position within the conservation area. Whilst unlisted, it contains a good deal of architectural detail. The front is single storey, the style is C19 commercial neoclassical and the structure wraps around the corner with Water Lane. The construction is in brick, and each bay of the frontage to North Road is framed by stucco dressings – a panelled plinth, fluted composite pilasters and an entablature above, with cornice, blocking course and coping. The large plate glass windows are vertically proportioned, with a large pane below and three tall windows above the horizontal transom. Above that are the hipped roofs in slate, with terracotta ridge tiles.
8. The single storey elevation to North Street, and the chamfered corner to Water Lane, together with the 2-storey remaining element of the site on Water Lane, would remain largely unaltered below their parapets. Behind these parapets, these 2 elements of the building currently have separate hipped slated roofs, little of which is seen from ground level. The principle visual change in the appeal proposal is the replacement of the 2 hipped roofs with single 'mansard' roof.
9. This roof would have, on the 2 street frontages, sloping sides topped for the majority of its area by a flat roof. The sloping elements on the west and south elevations would be covered in natural slates reclaimed from the existing roof. There would be a new lead dormer with painted timber windows set above the junction of the single and 2-storey elements on Water Lane, and a slightly higher mansard/hip-roof element, a little to the east, running back from the Water Lane frontage.
10. The other elevations, the returns to the north from Water Lane and the return from North Street, would be hidden from the public domain by adjoining buildings. These would be the least satisfactory parts of the design, incorporating uPVC windows and dormers. But since they would be hidden from view, and since this is not a listed building, I consider that they would have a neutral effect on the character or appearance of the conservation area.

11. At the present time the 2 roof elements of the appeal property play a very minor part in the appearance of the building, unlike the 2 chimneys, particularly the northern one that is such a feature. That would not be the case with the proposed development. The top of the mansard along the front would be noticeably higher and would wrap around the corner almost to the top of the southern chimney. This would mean that the proposed roof would be more prominent, especially from the west on North Street and in the diagonal view from the south-west across the entry to Water Lane.
12. Whilst North Street is dominated by 2 and 3 storey buildings, and the neighbour of the appeal building to the north is of 2-storeys by virtue of the falling ground levels, the attractive and seemingly unaltered façade of the appeal property is very much that of a single storey building with its parapet and low hipped roof behind. The proposed changes to the appearance on North Street and as the building turns the corner into Water Lane, would be visually intrusive, and damaging to the character and appearance of this part of the conservation area. Whilst No.38 is a NDHA, without having the importance of a listed building, I consider that it is of considerable visual significance at the northern entrance to North Street, as it rises from Hadham Road. There would also be an impact on the setting of the listed building at Nos.31-34 North Street.
13. I therefore conclude that proposal would be harmful to the significance of the NDHA and the conservation area. In reaching this conclusion I have noted the reference by the appellant to the grant of planning permission by the council for extensions and alterations to create additional residential flats at No.42 North Street, just a short distance to the north. I have viewed the 'Existing' and 'Proposed' plans, and therefore am able to judge the changes to that building. I have also noted the further reference to a proposal at No.40a North Street. As far as No.42 is concerned, it appears to me that there are considerable differences between that development and the appeal proposal. I do not regard the permission that the council has given as any justification for coming to a different conclusion to the one that I have reached in this case.

The standard of amenity for the future occupiers of the proposed residential units

14. The objection by the council under this issue relates to the floorspace of proposed flat 2. Policy DES4(f) of the District Plan requires that all new residential units have rooms that are of appropriate size and dimensions. The Technical Housing Standards (Nationally Described Space Standards) (2015) set out the minimum space standards for new residential properties.
15. The standards require that one bedroom properties provided over one floor should measure at least 50 m² in internal floor area when having a double room/twin bedroom, with that bedroom having a floor area of at least 11.5m². Because the submitted plans (drawing No. 001-09 Rev E) showed Flat 2 as having a floor area of 44 m² and a bedroom of 12.7 m², it counted as a 2 person double bedroom. Therefore the 'at least 50 m² in internal floor area' was not met. The appeal documents included a drawing No. 001-09 Rev F which showed Flat 2 having a floor area of 44 m² and bedroom of 11.3 m², thereby meeting the floor space requirements.

16. However, the council's refusal notice did not list drawing No. 001-09 Rev F, and this was not an application plan. Whilst the Rev. F drawing appears to show a satisfactory scheme in respect of issue 2, the application drawing did not show a scheme that met the standards. Nevertheless, had I found the proposal acceptable on the first issue, it could have asked the council for its views and then it might have been possible to take the Rev F drawing into account.
17. In the circumstances of this case, I must find that the application fails on the second issue. The proposed development would therefore fail to comply with policy DES4 of the District Plan which seeks to ensure that all internal rooms are of an appropriate size and dimension so that the intended function of each room can be satisfactorily achieved.

Conclusions

18. I have taken account of all the matters raised and carefully read the submitted Heritage Impact Assessment. Whilst there is much in that document that I can agree with, it will be clear that I have reached a different conclusion on the first issue. That conclusion is that the proposed changes to the appearance on North Street and as the building turns the corner into Water Lane, would be visually intrusive, and damaging to the character and appearance of the existing building, streetscene and the Bishop's Stortford Conservation Area. I judge this harm to the heritage assets concerned as being less than substantial.
19. Where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (NPPF paragraph 208). The public benefits of the proposal are the creation of 2 flats, and although it has not been raised, possibly securing a viable optimal use. The matter of the 5 year housing land supply has been mentioned, but that is not convincing in bringing into effect the balance required in NPPF paragraph 11 d). Even if the generality of 11 d) were in play, 2 additional small dwellings would not outweigh *"the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed"* which include the policies relating to designated heritage assets. In this case, the harm outweighs the public benefits.
20. The proposal is therefore contrary to Policies DES4, HA2 and HA4 of the East Herts District Plan 2018 and those of the NPPF that have been referred to.
21. In addition, on the basis of the drawings supporting the appeal proposal at application stage, I find that the proposed development would fail to comply with policy DES4 in that all internal rooms would not be of an appropriate size and dimension, as required by that policy.
22. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR