



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/24/3340311

5 Highfield Road, Hertford, SG13 8BH

- 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 T Infantino against the decision of East Hertfordshire District Council.
 - The application Ref is 3/23/2242/FUL.
 - The development proposed is the demolition of garage; erection of detached two-storey, five bedroom dwelling; installation of solar panels and air source heat pump and creation of new vehicular access way and parking.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The application form for planning permission described the proposed development as 'Detached dwelling'. This was subsequently altered, as shown on the appeal form, to the description used in the banner heading above. This description includes 'five bedroom dwelling'. However, the relevant plan, drawing No.810_321_B, shows 4 bedrooms. A 5 bedroom house could not be built on the basis of approved plans showing just 4 bedrooms, and this anomaly between the description of the development and the plans would be best avoided.
3. I consider that any planning permission on the basis of the submitted plans would require that the description of the development be amended from 'five bedroom' to 'four bedroom'. I assess the appeal proposal on the basis of the plans.

Main Issues

4. The main issues in this case are: i) the effect of the proposed house on the character and appearance of the Hertford Conservation Area; ii) the effect of noise from the proposed Air Source Heat Pump on the amenity of neighbours; and iii) the extent to which the proposal would meet sustainability objectives.

Reasons

The effect of the proposed house on the character and appearance of the Hertford Conservation Area

5. The appeal site lies within a residential area of Hertford, characterised by large 2-storey detached houses within large plots, although there are one or two examples of smaller houses. This eastern end of Highfield Road, especially on the appeal site side, benefits from mature trees and hedges along the frontages.
6. The existing house is set back from the road behind railings set in front of landscaping and the plot contains several mature trees. The neighbouring building to the north-east, on the other side of the appeal site, is a substantial pair of semi-detached houses. The house that is adjacent to the appeal site has a single-storey side extension, alongside which is a wide gravelled drive which lends some additional space alongside the proposed development.
7. The site is within the Hertford Conservation Area, and therefore 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. This is echoed by Policy HA4 'Conservation Areas' of the East Herts District Plan 2018. Other local plan policies of particular relevance are DES4 'Design of Development, HA1 'Designated Heritage Assets', and HA2 'Non-Designated Heritage Assets'. Since these policies are well known to the parties, I need not set out their provisions here. Number 5 Highfield Road is identified as a non-designated heritage asset (NDHA).
8. The proposed dwelling would be set on the site so that its main axis would be at right-angles to the road. The front elevation would feature a 2-storey forward projection under a gable with, in the set-back, a porch under a mono-pitch roof. Above this would be the main 'crown' roof with steep pitches on all sides. The design follows from an analysis of the local materials palette and architectural features in the area. From this analysis there has been a successful combination of features that relate well to dwellings in the immediate locality. These include red brick walls, brown clay plain tiles, and decorative tile hanging in the forward projecting gable. It would remain a modern design, but sufficiently in accord with the local palette.
9. However, the narrow front elevation, due to its orientation being north-south, rather than the established pattern of an east-west layout, would be out of character with the houses in the road. Whilst its footprint would not be small, it would present as a narrow house, somewhat squeezed into the site, and too close to the host dwelling. This would also mean that the view of the important trees and vegetation currently viewed alongside the existing garage and beyond, which are of significance to the local character, would be lost.
10. For these reasons the proposed house would not preserve or enhance the character or appearance of the Hertford Conservation Area, and it would be harmful to the setting of the host dwelling as a NDHA. This would amount to less than substantial harm.
11. As paragraph 208 of the National Planning Policy Framework (NPPF) explains "Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset (in this case the conservation area), this harm should be weighed against the public benefits of the proposal ... ". The public benefits of the scheme would be the provision of an additional dwelling.

12. The officer's report stated that the council could not demonstrate a 5-year housing land supply – which would lead to consideration of paragraph 11 d) of the NPPF. However, the council's appeal statement asserts that it can now demonstrate a supply of 5.95 years. Accepting this at face value, the situation is that, even if there was a shortfall, a single dwelling would not outweigh the harm to the conservation area and the setting of the NDHA.

The effect of noise from the proposed Air Source Heat Pump on the amenity of neighbours

13. The officer's report simply reports that the air source heat pump (ASHP) exceeds the council's criteria. I have viewed the material referred to in the council's appeal statement. I have not found it useful: I cannot be expected to undertake calculations and have not the data to do so. If a refusal reason is given, it is to be expected that the authority will be able to back it with evidence.
14. The application does not specify the heat pump proposed. If a planning permission were to be given it would be necessary to condition a particular pump or the criteria that defines its performance. I am told that the pump referred to at the time of the application had a sound level of 53dB(A). If this is a maximum figure, it is a reasonably quiet ASHP. Subsequently a Daikin Altherma 3 H HT pump has been put forward, which operates at a noise level of 38 dB(A). I have been provided with a copy of the brochure for this model which I see this has the 'Quietmark', but I also see that it appears to have a maximum sound level (when working at coldest times of the year) of 54dB(A). This is still a quiet pump, as shown by the Quietmark. Without calculations and details of any necessary baffle/visual screen, I cannot be satisfied about the acceptability of this unit (or any other that might be considered) in terms of the amenity of neighbours.

The extent to which the proposal would meet sustainability objectives

15. The appeal application was dated 24 November 2023, but the Energy Statement is dated 9 August 2023. I also note that the previous application for a similar proposal was refused on 6 October 2023. It therefore appears that this statement is not applicable to the appeal proposal. The council also points out that the statement recorded a 'fail' for Criterion 1 of the general compliance requirements in relation to carbon dioxide emissions rate and dwelling fabric energy efficiency. Furthermore, there is no commentary to assist in a full understanding of the findings of the Energy Statement. I also see that on page 8 it is stated at item i) that "This is a refurbishment and extension project and therefore the carbon reductions beyond Approved Document L will be limited due to the reuse of the existing structure". This does not reflect the new build nature of the appeal proposal.
16. In the light of the above, I cannot rely on the submitted Energy Statement to demonstrate the extent to which the proposal would meet sustainability objectives.

Conclusions

17. In light of my reasoning in paragraphs 9 to 12, I conclude that the appeal proposal would not preserve or enhance the character or appearance of the

Hertford Conservation Area, and it would be harmful to the setting of the host dwelling as a NDHA, amounting to less than substantial harm. Furthermore, whilst the council claims that it can now demonstrate a 5 year housing land supply, assuming this is so, a single dwelling would not outweigh the harm to the conservation area and the setting of the NDHA.

18. In respect of the second issue, without calculations of sound levels, the nearest sensitive point, any attenuation through distance etc, and details of any necessary baffle/visual screen, I cannot make a judgement about the acceptability of this unit (or any other that might be considered) in terms of the amenity of neighbours, and therefore this is an additional reason for refusing the grant of planning permission.
19. In respect of meeting sustainability objectives, the documentation provided is not persuasive, and I am not convinced that the proposal would meet sustainability objectives.
20. For these reasons the appeal will be dismissed.

Terrence Kemmann-Lane

INSPECTOR