



Appeal Decision

Site visit made on 30 November 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2021

Appeal Ref: APP/X1925/W/21/3276569

Garages rear of Garrison Court, Mount Garrison, Hitchin SG4 9AA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Garrison Court Freeholders Ltd against the decision of North Hertfordshire District Council.
 - The application Ref 20/03045/FP, dated 5 January 2021, was refused by notice dated 5 March 2021.
 - The development proposed is the demolition of the existing garages and erection of eight apartments.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue relevant to this appeal is the effect of the development upon the living conditions of the nearby dwellings at Garrison Court., with particular reference to outlook.

Reasons

3. The appeal site consists of a garage court located to the rear of Garrison Court. The rear boundary of this property is shared with the appeal site. The appeal site alongside Garrison Court is located within the urban area. The vicinity of the appeal site contains a number of different buildings. Garrison Court is used as flats and has a shared garden that neighbours the appeal site.
4. The appeal proposal consists of two four storey buildings located close to the shared boundary between the appeal site and Garrison Court. In consequence, the appeal proposal would, by reason of its height, bulk and siting, result in a significant enclosing effect upon the communal garden that serves the development at Garrison Court.
5. The development would therefore result in an overbearing effect upon the neighbouring property's garden. In result, users of the garden space would not benefit from appropriate levels of outlook necessary to secure good living conditions. This would restrict the level of usage of the existing property's communal garden.
6. In addition, Garrison Court is in use as flats. This means that the rear elevation ground floor windows are of importance in providing outlook for the occupiers of the ground floor flats of the neighbouring property. Therefore, the construction of the proposed development which would be of a significant height and close to the shared boundary would mean that the development

- would have a significantly enclosing and overbearing effect on the neighbouring property. This would result in a reduction in the level of outlook.
7. I am not aware of adopted minimum separation distances between developments. However, whilst the proposed development would be separated from the existing building by the garden, the proposed development's height and positioning is such that there would be a significant and demonstrable loss of outlook to the occupiers of the existing neighbouring building.
 8. In addition, the communal garden would be significantly closer to the appeal site. In consequence, the development would result in a substantial loss of outlook to this space irrespective of the separation distance between the existing and proposed buildings.
 9. Therefore, even though the appeal site is located within the urban area and close to a number of services and facilities, the development would result in a significant erosion of the living conditions experienced by the occupiers of the neighbouring property.
 10. The proposed development could be constructed from an appropriate palette of materials and include features such as green roofs. However, such features would not overcome the adverse effects arising from the siting, scale and massing of the proposed development.
 11. The proposed development would result in the removal of the existing garages. However, whilst I acknowledge concerns regarding their condition, the building's adverse effects would be so significant that any such benefits would be outweighed.
 12. I recognise that the proposed development would result in a new use of previously developed land that does not appear to currently being used on an intensive basis. In addition, the development would not result in an adverse effect on matters including the character and appearance of the surrounding area or the highway system. Whilst these are matters of note, they are only some of all those that must be assessed. Therefore, they do not overcome my previous concerns. In addition, I have been directed towards adopted Development Plan policies that seek to retain the living conditions of the occupiers of neighbouring properties.
 13. My attention has been drawn to developments permitted elsewhere. I do not have the full information regarding their planning circumstances, which lessens the weight that I can attribute to them. Nonetheless, I note that these developments are not adjacent to existing communal gardens. Therefore, the contexts of the previously permitted developments are different to the appeal scheme. In result, they have different effects and the previously permitted schemes do not allow me to disregard my concerns.
 14. References have been made to an emerging local plan. My understanding is that the emerging plan has been modified and that the final report from the Inspector is awaited. In consequence, I cannot be certain as to when the emerging local plan might be adopted and therefore, I am unable to give it full weight in my assessments.
 15. I therefore conclude that the proposed development would have an adverse effect upon the living conditions of the occupiers of neighbouring properties. The development, in this regard, would conflict with Policies 26 and 57 of the

North Hertfordshire District Local Plan (1996). Amongst other matters, these seek to ensure that new developments be acceptable in that location within the environment of the existing area; and require careful and thoughtful design for future generations, whether or not these are residents.

Other Matters

16. I note that, in submitting the application for planning permission, the appellant was attempting to overcome a previous refusal of planning permission. However, this does not outweigh my previous findings.

Conclusion

17. The proposal would have an adverse effect upon the living conditions of the occupiers of neighbouring properties. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR