



Appeal Decision

Site visit made on 25 July 2022

by C Harding BA(Hons) PGDipTRP PGCert MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th September 2022

Appeal Ref: APP/X1925/W/21/3284838

165 Weston Way, Baldock SG7 6JG

- 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 Mr Chris Hunt against the decision of North Hertfordshire District Council.
 - The application Ref 20/02500/FP, dated 31 October 2020, was refused by notice dated 27 September 2021.
 - The development proposed is conversion of existing 3-bedroom house into 2no. single level apartments and construction of a new 2-bedroom house adjoined to 165 Weston Road.
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Chris Hunt against North Hertfordshire District Council. This application is the subject of a separate decision.

Main Issues

3. The main issues are;
 - the effect of the proposed development upon the living conditions of the occupiers of 2 Willian Way in terms of outlook, daylight and privacy, and
 - whether the proposed development would provide adequate living conditions for future occupiers in terms of internal space.

Reasons

The living conditions of occupiers of neighbouring properties in terms of outlook and privacy

4. The site comprises an existing residential dwelling and associated garden, located on a corner plot, at the end of a terrace of similar properties. A neighbouring dwelling at 2 Willian Way sits perpendicular to the northeast of the appeal site. I saw on my visit that an existing single storey extension at no.2 comprised a living space used by the occupiers of the property, and furthermore that there are windows in the western elevation of this property that serve living areas.
5. The situation of the proposed additional dwelling to the northern side of the existing dwelling on the appeal site would introduce built development into the

side garden, with ground floor rear elevation dual doors, and first floor rooflight windows facing northwards.

6. At present, the relationship between the appeal site and no.2 is close, but the arrangement of the properties means that existing built development on the appeal site lies to the southwest of no.2, leaving a generally open outlook from living areas at no.2 which have west-facing windows, including the existing single storey rear extension at this property.
7. The situation of the proposed dwelling within the currently existing open space to the side of the existing dwelling at the appeal site, would result in substantial built form being situated in close proximity to the shared boundary with no.2. As a result of its position and the scale of the proposed dwelling, it would be prominent in views from internal living areas of this property, as well as from the rear and side gardens, and would appear as overbearing as a result.
8. Although the extension at no.2 Willian Way is a later addition to the property, it constitutes usable living space, and I afford it the same level of protection in terms of preserving living conditions as other living space within the original dwelling.
9. In terms of privacy, there would be the potential for views between the window contained within the west-facing dormer window at no.2, and the proposed rooflights within the proposed development. A further window at first floor level within the proposed dwelling would have the potential to overlook the side garden of no.2, as well as potentially into ground floor west-facing windows. Although some of these views could be oblique in nature, not all would be, and all would be at close proximity, and would lead to unacceptable levels of privacy being available to both occupiers of no.2 and the proposed new dwelling.
10. As such, there would be harm to the living conditions of the occupiers of the neighbouring property in terms of privacy and outlook. Accordingly, the proposed development would be contrary to North Hertfordshire District Local Plan 2007 (NHDLP) saved Policy 57 which requires new development to have careful consideration with regards to the size, type and location of windows in order to achieve a high degree of privacy, and emerging North Hertfordshire Local Plan Policy D3 which states that new development will not be permitted where adequate living conditions cannot be achieved. It would also fail to accord with the design objections of the National Planning Policy Framework ('the Framework'). Although emerging NHLP Policy D2 has been referred to by the Council, my attention has not been directed to any particular wording within the policy that relates to this issue, so this policy is not determinative in my consideration.

The living conditions of future occupiers in terms of internal space.

11. The submitted plans indicate that the proposed dwelling would amount to 70 square metres (sq.m) of internal floor space, and that the two proposed bedrooms would amount to 11sq.m and 10sq.m respectively.
12. The Nationally Described Space Standards (NDSS) set out that two-bedroom, two-storey properties should provide 70sq.m of internal space in the case of 3 persons occupying the property, and 79sq.m in the case of 4 persons

- occupation, with a further 2sq.m of storage space provided in both instances. It is also stated that in the case of properties of two or more bedrooms, that at least one bedroom should be large enough to be occupied by two persons.
13. Neither bedroom within the proposed dwelling would achieve the 11.5sq.m required by NDSS for a two person bedroom. It is also the case that at a total of 70sq.m, that the property would fail to meet the minimum standards required for a two-bedroom two-storey dwelling, which would be expected to accommodate at least three occupants and provide at a minimum, a total of 72sq.m inclusive of storage space. The lack of adequate internal living space would be likely to result in an oppressively confined form of living accommodation that could be detrimental to the health and wellbeing of its future occupants.
 14. The proposed first floor single bedroom flat includes a bedroom of 9sq.m, sufficient to accommodate a single occupant, but not for occupancy for two persons. The overall floor area of 47sq.m for this flat would meet the NDSS requirements for single occupancy, and on this basis would be acceptable. Equally, the proposed bedroom size and overall size of the ground floor flat would exceed the required minimum standards within NDSS for a single bedroom, two-person flat, and is therefore also acceptable.
 15. The appellant argues that the proposed accommodation is comparable to other new build properties. However, I have not been provided with specific details of such instances, or the context within which they may have been approved, so I cannot afford them weight.
 16. Having regards to the above, the proposed dwelling would fail to provide adequate living conditions for future occupiers of the proposed additional dwelling in terms of internal space. As a result, it would be contrary to NHDLP Policy 57 and Policy D1 of the emerging NHLP which together require new development to provide internal floorspace sufficient to meet the reasonable requirements of future occupants.

Other Matters

17. I note that matters such as the level of parking provision, efficient use of land and design are not in dispute and have been set out in some representations as a basis of support for the application. Even if I were to agree with regards to these issues, they would only be neutral factors and would not weigh in favour of the proposed development.
18. The appellant has highlighted the level of support that the proposed development has received, and I acknowledge that there has been both support and objection to it. Several letters of support contain reference to the proposed development increasing the supply of affordable housing. However, there is no evidence before me to indicate that the proposed development would meet the formal definition of affordable housing contained within Annex 2 of the Framework, and I accordingly I do not afford weight to this. I do however accept that the proposed development would boost the overall supply of housing, as well as contributing to the wider economy.
19. I acknowledge the concerns that the appellant has raised in relation to the procedural approach taken by the Council with regards to the planning

application. However, my decision is based only on the merits of the proposed development.

Planning Balance and Conclusion

20. The Council confirms that it has only a 1.7 year supply of housing. Since it is unable to demonstrate the supply of housing sites as required by the Framework, I consider the most important policies to be out-of-date and I am taken, in regard to the specific circumstances of the case, to the mechanism of Paragraph 11 d) ii) of the Framework.
21. I have found that the proposed development would give rise to unacceptable living conditions, both to the future occupiers of the proposed dwelling in terms of internal space, and also in terms of living conditions for occupiers of a neighbouring property in terms of privacy and outlook. It would be contrary to the aims of the Framework which require new development to create spaces that have a high standard of amenity for existing and future users. I ascribe this harm substantial weight.
22. Given that the Council can only demonstrate a housing supply of 1.7 years, I attribute this shortfall significant weight. The provision of two additional residential properties above and beyond the single dwelling that currently exists at the site would make a positive, albeit very modest, contribution towards boosting housing supply. This would, in turn, provide employment during construction, albeit this would be time limited. There would also be other social and economic benefits to both Baldock and the wider area in terms of supporting local facilities and services. These would however also be limited by the scale of the proposed development. For this reason, I would afford them limited weight.
23. With this in mind, the adverse impacts of granting a planning permission would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole. Therefore, the proposal would not represent sustainable development for which the presumption in favour applies.
24. For the reasons given above, having regards to the development plan as a whole, and all other relevant considerations, including the Framework, the appeal is dismissed.

C Harding

INSPECTOR