The Planning Inspectorate

Appeal Decision

Site visit made on 6 February 2019

by I A Dyer BSc (Eng) MIHT

an Inspector appointed by the Secretary of State

Decision date: 15 March 2019

Appeal Ref: APP/X1925/W/18/3216420
1-3 The Mead, Hitchin SG5 1XZ

- 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 J Patel against the decision of North Hertfordshire District Council.
- The application Ref 18/00278/FP, dated 26 January 2018, was refused by notice dated 29 May 2018.
- The development proposed is change of use from A1 to A5.

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr J Patel against North Hertfordshire District Council. This application is the subject of a separate Decision.

Procedural matters

3. A revised National Planning Policy Framework (the Framework) has been published since the Council issued its decision. I find that the revised Framework makes no material change to national planning policy as it relates to the specifics of this case and it does not lead me to any other conclusion than that which I have reached in terms of the harm arising from the proposed development.

4. The North Hertfordshire Emerging Local Plan 2011-2031 (the emerging Local Plan) has been submitted and subjected to preliminary examination but, while it is at an advanced stage, has not been found sound or adopted and so it does not yet form part of the Development Plan. The District Council rely upon two emerging policies cited by the District in its reason for refusal: emerging Policy SP9 and emerging Policy D1. I understand that the outstanding objections do not relate to the principle of requiring developments to be of good design and in keeping with the character and appearance of their setting, but other detailed matters.

Main Issue

5. The main issue is the effect of the development upon the character and appearance of the host property and the surrounding area.

Reasons

6. The appeal site is a neighbourhood convenience store with residential accommodation above located on a side road within a residential area. The dwellings to the north and east take the form of four storey blocks of flats or maisonettes, whilst to the south and west there are two storey semi-detached houses. The blocks of flats are separated by areas of public space.

7. The proposed works associated with the change of use would add a substantial external flue to the eastern flank wall of the building from ground floor level to above the roof ridge. The main part of the flue would be clearly visible from the north-east of the site through to the east, whilst the projection above the roof ridge would be seen from viewpoints from the south-west, south through to the north-east.

8. Whilst the existing appearance of the building is unexceptional architecturally, the size and shape of the flue, and the material of which it would be constructed, do not relate to the existing form of the building to which it will be affixed. The flue follows a contrived course up the side of the building, avoiding windows and would be constructed of metal, which would be incongruous and out of character with the surrounding brick-built buildings. It would occupy a very visible position and its more industrial form would be out-of-keeping with the residential nature of the immediate area.

9. The Council has relied only upon reference to the emerging Local Plan and the National Planning Policy Framework 2012. Nevertheless, these policies within the emerging Local Plan are broadly in accordance with the aims of the Framework and so any conflict with them is of moderate weight.

10. In its decision the Council refer to Section 7 of the National Planning Policy Framework (2012). This policy reference has been superseded by revisions forming Section 12 in the Framework which continues to promote good design.

11. I therefore conclude that the development would result in harm to the character and appearance of the host property and the surrounding area contrary to emerging Policies SP9 and D1 of the North Hertfordshire Local Plan 2011-2031, which supports development that is well designed and responds positively to its local context. It would also fail to comply with the Framework's aim of ensuring that development adds to the overall quality of the area.

Other matters

12. I appreciate that the appellant was disappointed to have the scheme refused, contrary to advice of the Council's officers. However, the decision is a matter of planning judgement. The Council Members in this case were entitled not to accept the professional advice of Officers so long as a they gave planning reasons for coming to a contrary view.

13. There have been a number of representations received from local residents, that both support and object to the proposed development. Many of the letters of support for the proposal refer to the benefits that the development would bring to the local area by provision of a convenient source of hot food for residents. However, there may be other ways of providing an extraction flue which would enable these benefits to be achieved in a manner that would less harmful to the environment. Support for the scheme is not a factor that

outweighs the material harm that I have identified and therefore do not alter my conclusion.

Conclusion

14. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

I Dyer

INSPECTOR