

Appeal Decision

Site visit made on 25 April 2017

by Grahame Gould BA MPhil MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th May 2017

Appeal Ref: APP/J2210/W/17/3168723

Land adjacent to 54 Northgate, Canterbury CT1 1BE

- 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 John Rodgers of Torran Construction Limited against the decision of Canterbury City Council.
 - The application Ref 16/01960, dated 16 August 2016, was refused by notice dated 15 November 2016.
 - The development proposed is described as 'develop a disused site in the City centre into a mixed use development comprising one retail units, two (2-bed) flats and two (1-bed) flats, with private garden and cycle and bin storage.'
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a two-storey building with accommodation in the roof space comprising a ground floor retail unit and 4 flats at land adjacent to 54 Northgate, Canterbury CT1 1BE in accordance with the terms of the application, Ref 16/01960, dated 16 August 2016, subject to the conditions in the Schedule to this decision.

Procedural Matters

2. In processing the appealed application the Council changed the description of the development. The appellant has raised no objection to that change being made and I have used the altered description in my formal decision above.
3. The application was amended prior to its determination by the Council and I have only had regard to the plans that formed the basis of the Council's decision.

Main Issue

4. The main issue is the effect of the development on the occupiers of 54, 55A and 55B Northgate (Nos 54, 55A and 55B) and 1 St John's Place (No 1), with particular regard to outlook and light.

Reasons

5. The development would involve the construction of a detached two storey building (block), with accommodation in its roof space. The block would accommodate a small shop unit and four flats and it would occupy a vacant plot of land to the side of Nos 54, 55A and 55B and No 1. Nos 54, 55A and 55B are within a property occupied on a mixed use basis. No 54 is a
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ground floor estate agent's office (the office), Nos 55A and 55B are ground and first floor flats and No 1 is a two storey, semi-detached house.

Effect on the occupiers of Nos 54, 55A and 55B

6. The block would occupy much of the appeal site and would therefore extend several metres beyond the rearmost part of the rear elevation of Nos 55A and 55B. Within the south western (side) elevation of Nos 54, 55A and 55B there are three ground floor windows and a partly glazed door, while at first floor there is one window, together with a rooflight. The siting of the block would to varying degrees affect the receipt of light to and the outlook from the parts of Nos 54, 55A and 55B served by the previously mentioned windows.
7. At ground floor level the siting of the block would potentially have the greatest effect on No 55A's side window, which serves this studio flat's living area¹. However, No 55A's living area is also served by two further windows, which are within this flat's north eastern elevation and have been fitted with obscured glazing². To assist with the consideration of the development's effect on the receipt of light to the neighbouring properties the appellant has submitted a daylighting and sunlighting assessment (the lighting assessment), which has been prepared in line with the guidance produced by the Building Research Establishment (BRE). The lighting assessment highlights that No 55A's south western window would receive reduced amounts of daylight. However, as this flat would continue to be illuminated by its obscure glazed windows the overall daylighting reduction has been assessed as being around 2.6% of the current level.
8. The conclusions of the lighting assessment with respect to the development's effect on the daylighting of No 55A have not been disputed and I therefore consider that a 2.6% reduction in daylighting would not be unacceptable. The appellant's lighting assessment highlights that No 55A's south western elevation window would receive sunlight at a level significantly below that of the prevailing situation. However, this window appears to have been installed fairly recently and as the appeal site has been vacant since the late 1980s³ it would not be unreasonable to expect that at some stage this piece of land would be redeveloped, given its city centre location. I therefore consider, on balance, while there would be a significant reduction in the receipt of sunlight to No 55A that would not be unacceptable, given the comparatively recent installation of the effected window.
9. The siting and height of the block would mean that the outlook from No 55A's south western window would be greatly reduced. However, some limited outlook would be possible via the obscure glazed windows and I therefore consider that the lost outlook would not, of itself, be of a scale to warrant the withholding of planning permission.
10. The floor plan for No 55B shows the window in its south western serving a corridor. However, the owner of this property has submitted that this window provides 'borrowed light' to a bedroom. While I do not doubt that the window in question is to some degree being used to illuminate a bedroom on a

¹ As shown of the floorplans provided by the Council

² Based on the representations made by the property owner

³ With the public house that stood on it having been demolished then according to the representations made the occupiers of No 1

borrowed basis, such an arrangement, in my experience, is highly unusual and is indicative of a poorly planned internal layout, with the receipt of any borrowed light being dependent on the bedroom's door being kept open. I therefore consider that any effect the block might have on the receipt of borrowed light to the effected bedroom does not amount to a reason for withholding planning permission. I am also of the view that what would be a limited loss of outlook via the corridor window for the occupiers of the adjoining bedroom would not be of an unreasonable level.

11. Within No 54's south western elevation there are two windows serving the office. The forward most of those windows is being used to display property details, an activity which I consider significantly affects both the outlook and receipt of light via this window. No 54's rearmost window serves a kitchenette and the duration of its use, at anyone time, is likely to be of comparatively short term nature. I therefore consider that the effect on the outlook from and receipt of light to the office's windows would not be unreasonable.
12. It has been submitted that the development could affect the ventilation of and means of escape from Nos 54, 55A and 55B. However, there would be separation between those properties and the block, in the form of the retained alley, and I therefore consider that there would be no adverse effect on either the ventilation of or means of escape from Nos 54, 55A and 55B.

Effect on the occupiers of No 1

13. The block would be orientated at right angles to No 1 and within No 1's single storey outrigger there is a clear glazed kitchen window and an obscure glazed toilet window. The appellant's daylight and sunlight assessment has found that when the BRE's guidelines are applied there would be no unacceptable reduction in the receipt of daylight or sunlight to the interior of No 1. From what I observed of No 1's interior, and allowing for the height and siting of the block, I consider that the development would not cause any unacceptable reduction in the receipt of light inside No 1.
14. An overshadowing assessment for No 1's rear garden is included within the appellant's lighting assessment and this demonstrates that there would be a very slight increase in the degree of shadowing. I consider that the very slight increase in the overshadowing of No 1's rear garden would not be harmful to the living conditions for the occupiers of this property.
15. There would be some loss of outlook from No 1's kitchen window, however, the views of the block would generally be at an oblique angle. I therefore consider that the loss of outlook from the kitchen window would be of a scale that would not be harmful to the users of No 1's kitchen. I also consider that the height and siting of the block relative to No 1's rear garden would mean that its presence would not have an unacceptably enclosing effect, in what is already a tightly knit built up area.
16. For the reasons given above I conclude that the development would not cause unacceptable harm to the occupiers of Nos 54, 55A and 55B and No 1. The development would therefore accord with Policy BE1 of the Canterbury District Local Plan First Review of 2006 and the fourth core planning principle stated in paragraph 17 of the National Planning Policy Framework. That is because there would be no unacceptable effect on the amenity of the existing

environment, ie the conditions of the occupants of the neighbouring properties. For similar reasons I consider there would be no conflict with Policy DBE3 of the Council's emerging Local Plan (the ELP). However, while the examination of the ELP has reached an advanced stage that plan is yet to be adopted and I consider the absence of conflict with Policy DBE3 is not determinative.

Other Matter

17. The development would be situated within the extensive mixed use Canterbury City Conservation Area (the CA). The Council has raised no objection to the development in terms of its effect on the character or appearance of the CA or any of the adjoining listed buildings and I see no reason to reach a contrary view on this matter. I therefore consider that the development would preserve the character and appearance of the CA and the setting of the adjoining listed buildings.

Conditions

18. The Council has suggested various conditions and I have considered the need for their imposition, having regard to the provisions of the national policy and guidance.
19. Apart from the standard time limit condition, I find it necessary that the development should be built to accord with the submitted plans for certainty. Given the site's historically sensitive location it is necessary for its archaeological potential to be assessed in accordance with details to be submitted for the Council's approval. As below ground works could have implications for any buried archaeology it is appropriate that the details to be submitted pursuant to the archaeological condition are lodged and approved prior to any works being commenced.
20. In the interests of safeguarding the living conditions of the occupiers of neighbouring properties during the construction works it is necessary for a construction method statement to be submitted covering details relating to the installation of hoardings, the delivery and construction working times and the control of dust. The condition suggested by the Council seeks the submission of details relating to vehicle routing, the parking of construction workers' vehicles, temporary traffic management arrangements and wheel washing equipment. However, as there will be insufficient space on site for personnel to park; few vehicle routing options to get to and from the site will be available and the other matters referred to by the Council are controlled by the highway legislation, I consider it unnecessary for the construction method statement to cover those details.
21. To safeguard the appearance of the area it is necessary for samples of the external materials and the details of the joinery for the external doors and windows to be submitted for the Council's approval. However, there is no need for those details to be submitted until the development has progressed beyond foundation level.
22. To safeguard the privacy of the occupiers of the development and Nos 54, 55A and 55B it is necessary that the windows in the block's north eastern elevation are installed with obscure glazing and that that glazing is retained following its installation. In the interests of safeguarding the living

conditions of the occupiers of the development and neighbouring properties it is necessary that the refuse storage area is provided prior to the development's first occupation. In the interests of the promotion of increased bicycle use it is necessary that the cycle parking storage facilities are available prior to the development's first occupation.

23. A condition requiring the submission of foul and surface water drainage arrangements has been suggested. However, I consider it unnecessary to impose such a condition, with the need to provide drainage being addressed by other legislation.

Conclusion

24. For the reasons given above the appeal is allowed.

Grahame Gould

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 4080-LA-001A Location Plan; 4080-PL-001A Ground Floor Plan as Proposed Option 3; 4080-PL-002A Plans and North Elevation as Proposed; 4080-PL-003A Attic Floor Plan and Roof Plan as Proposed; 4080-PL-004A West and South Elevation as Proposed; and 4080-LA-005 Elevations as Proposed.
- 3) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of:
 - a) archaeological field evaluation works in accordance with a specification and written timetable which has first been submitted to and approved in writing by the local planning authority; and
 - b) following on from the evaluation, any safeguarding measures to ensure preservation in situ of important archaeological remains and/or further archaeological investigation, post-excavation assessment, analysis, publication or conservation in accordance with a specification and timetable which has been submitted to and approved in writing by the local planning authority.
- 4) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Construction Method Statement shall include details of:
 - a) the provision of boundary hoardings;
 - b) the hours for the construction works, including delivery times for materials and construction plant; and
 - c) measures to control the generation of dust.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 5) No development above foundation level shall take place until details and samples of all external facing materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 6) No development above foundation level shall take place until details of the external doors and windows, including cross-sections through glazing bars and frames, elevations, glazing, materials, colour and finish have been submitted to and approved in writing by the local planning authority. Any drawn details to be submitted as a requirement of this condition shall be drawn at a scale of not less than 1:10. The development shall be carried out in accordance with the approved details.
- 7) Prior to the first occupation of the development the ground and first floor windows in the north eastern elevation of the building hereby approved shall be installed with obscured glazing and that glazing shall be retained thereafter.
- 8) Prior to the first occupation of the development the refuse and cycle storage facilities shown on the approved drawings shall be provided and thereafter they shall be retained for those storage purposes.