
Appeal Decision

Site visit made on 21 November 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 14th December 2017

Appeal Ref: APP/J2210/W/17/3181975

Tyler Court, land at the rear of 121a Sturry Road, Canterbury, Kent, CT1 1DA

- 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 Roberts Abbott Properties against the decision of Canterbury City Council.
 - The application Ref CA/15/02333/FUL, dated 29 October 2015, was refused by notice dated 14 February 2017.
 - The development proposed is two-storey building for student accommodation (2 x 1 bed studio apartments).
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Decision

1. The appeal is allowed and planning permission is granted for two-storey building for student accommodation (2 x 1 bed studio apartments) at Tyler Court, land at the rear of 121a Sturry Road, Canterbury, Kent, CT1 1DA in accordance with the terms of the application, Ref CA/15/02333/FUL, dated 29 October 2015, subject to the conditions set out in the attached Schedule.

Application for costs

2. An application for costs was made by Roberts Abbott Properties against Canterbury City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the Council's decision the Canterbury District Local Plan 2017 (LP) has been adopted. Policies HD7, DBE3 and T9 of the emerging Canterbury District Local Plan Deposit Draft 2014 referred to in the decision notice are now part of the adopted LP. The aims and objectives of these adopted policies remain unaltered and these form the basis of my decision.
4. The appellant has submitted with the appeal statement a plan (15/04/01 rev D) showing an alternative arrangement for the storage of cycles, along the front boundary wall of Tyler Court, and for refuse storage, within the side passage way. However, it is not the purpose of the appeal process to progress amendments to a scheme and my decision is based on the amended plans submitted to the Council at the application stage.

Main Issue

5. The main issue is whether the proposal would make adequate provision for cycle and refuse storage.

Reasons

6. The proposal is for the addition of two further one-bedroom studio apartments to the end of an existing two-storey block of eight units. This existing block of accommodation, Tyler Court, faces onto Parham Close and forms part of an established student village. The proposal relates to a vacant part of the site containing the existing apartment block. The site of this building was formerly the rear parts of the gardens to the houses at 121a – 125 Sturry Road.
7. The Council's sole reason for refusal relates to the failure to provide cycle and refuse facilities. However, the evidence persuades me that the appellant had during the course of the application addressed this matter with revised plans. These show a cycle shelter and a landfill and recycling bin storage area situated to the rear of Tyler Court and accessed by an existing side entrance (drawings 15/04/01 rev C and 15/04/02 rev D). I have no reason to doubt that these plans were submitted to the Council on 19 August 2016 and there would have been reasonable time for these to be the subject of consideration and any re-consultation deemed necessary prior to the decision made on 14 February 2017.
8. These amended plans make adequate provision for cycle and refuse storage for the existing and proposed student accommodation at Tyler Court. Consequently I find no conflict with the aims of LP policies HD7, DBE3 and T9 in regard to this matter or with paragraphs 34 and 35 of the National Planning Policy Framework 2012 (the Framework).

Other Matters

9. Regard has been given to the concerns raised by interested parties at both the application and appeal stages and with reference to the recent planning history relating to Tyler Court. This proposal would amount to a scheme for ten studio apartments similar to that which was the subject of an appeal dismissed on 22 June 2009¹. This appeal decision is a material consideration and I must give weight to the Inspector's conclusion that the scheme would have resulted in a cramped form of development not well related to its surroundings and harmful to the character and appearance of the area. In a linked appeal² the Inspector in the same decision letter approved an alternative proposal for a six studio apartment building.
10. Subsequent to these appeal decisions the Council approved the existing block of eight studios flats at Tyler Court on 10 March 2010³. This showed the site of the current appeal as containing a single-storey communal laundry service room with an adjacent cycle and refuse bin storage area and the land immediately to the rear of the apartment building re-incorporated into the gardens of Nos 121a – 125. Neither of these aspects of the approved scheme has subsequently been carried out. A poplar tree which formed a consideration in the earlier appeal decisions was noted by the Council as having been removed prior to the decision to allow the eight units.
11. The Council finds no harm to the character and appearance of the area arising from the further units which would match the contemporary design of the existing building. Having given due weight to the previous Inspector's decision

¹ APP/J2210/A/09/2100386

² APP/ J2210/A/09/2100389

³ CA/09/01760/FUL

I must consider the existing eight unit block subsequently allowed.

I find no reason to conclude there would be material harm from the matching design of the proposal. The development would fit in with the general character, pattern and density of development within Parham Close and would not comprise over-development.

12. The Council considers the proposed extension would be small in scale with only one window on a ground floor level facing the residential properties on Sturry Road, similar to the windows in the existing building. I do not differ from the Council's view that this would not result in material harm the living conditions of any neighbouring occupiers due to either loss of privacy or having an over-bearing impact.
13. I note that in the previous appeal decision for six units the Inspector had concluded that the reduced gardens to the Sturry Road houses were uncharacteristic of the area but not so small as to be harmful to living conditions. However, any breach of planning control in this regard is outside the scope of this appeal and the adverse impact on neighbouring amenity due to non-compliance with the approved plans forms no part of the Council decision subject to this appeal. This decision can only be based on the merits of what is proposed and the reason for the Council's refusal. The breaches of planning control referred to and the other concerns raised by interested parties over the developments in Parham Close fall outside the scope of this decision.

Unilateral Undertaking

14. A certified and completed Unilateral Undertaking (UU) made under Section 106 of the Town and Country Planning Act 1990 has been provided with the appeal to the effect that any licence, tenancy agreement or lease granted to occupiers of the development precludes them or visitors bringing with them any private motor vehicles. I am satisfied the UU meets the tests for planning obligations set out in paragraph 204 of the Framework and it has been given weight in arriving at the appeal decision.

Conditions

15. I have considered the conditions suggested by the Council against the tests set out in paragraph 206 of the Framework. In addition to the standard time limit for commencement it is necessary in the interest of certainty that a condition specifies the plans approved. To ensure the refuse storage area and cycle shelter are provided this is required by a condition to take place before the approved development can be occupied. In the interests of the living and working conditions of neighbouring occupiers and of highway safety the development is conditional upon agreement to and adherence with a Construction Method Statement.

Conclusion

16. For the reasons given, having taken into consideration all other matters raised, I conclude that the appeal should be allowed subject to the conditions set out below.

Jonathan Price

INSPECTOR

Schedule of Conditions
Appeal Ref: APP/J2210/W/17/3181975
Tyler Court, land at the rear of 121A Sturry Road, Canterbury,
Kent CT1 1DA

- 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: 15/04/01 rev C; 15/04/02 rev D.
- 3) The approved studio units shall not be occupied until the refuse storage area and cycle shelter shown in the approved plans have been provided. The refuse storage area and cycle shelter shall thereafter be retained for these respective purposes.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the routing of construction and delivery vehicles to and from the site;
 - ii) the parking of vehicles of site operatives and visitors;
 - iii) loading and unloading of plant and materials;
 - iv) storage of plant and materials used in constructing the development;
 - v) wheel washing facilities;
 - vi) measures to control the emission of dust and dirt during construction;
 - vii) temporary traffic management arrangements;
 - viii) delivery, demolition and construction working hours.

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

---End of Conditions---