



Appeal Decision

Site visit made on 28 January 2019

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21st March 2019

Appeal Ref: APP/Q0505/W/18/3211544
15A Vinery Road, Cambridge, CB1 3DN

- 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 Vinery Mews Ltd against the decision of Cambridge City Council.
 - The application Ref. 18/0509/FUL, dated 29 March 2018, was refused by notice dated 3 August 2018.
 - The development proposed is demolition of existing commercial unit and the provision of 6 residential units along with access, associated landscaping and works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the appeal was submitted the Cambridge Local Plan 2006, which was used in the determination of the application, has been replaced by the Cambridge Local Plan 2018 (LP). The Council has amended its statement and reasons for refusal accordingly and the appellants have had an opportunity to respond to these changes.
3. The revised National Planning Policy Framework (the Framework) was published on 24 July 2018, shortly before the Council's decision was issued, replacing the version published in 2012. It has since been updated in February 2019. For clarity, any references made to the Framework in this decision are to the 2019 version.
4. The plans submitted with the appeal contain some very minor amendments. These changes would not constitute a revised scheme and would not run contrary to the Wheatcroft principles¹. Furthermore the Council has had the opportunity to comment upon them. I have therefore accepted the amended plans and my decision is based upon them.

Main Issues

5. The main issues are whether the proposal would:
 - provide satisfactory living conditions for future occupants of the proposed development with particular regard to natural light and ventilation, outlook and private external space;
 - provide accessible homes;

¹ Bernard Wheatcroft Ltd v SSE

- create additional on street parking;
- preserve or enhance the character and appearance of the Central Conservation Area.

Reasons

Living Conditions

6. Policy 50 of the Cambridge Local Plan 2018 (LP) sets out internal space standards for new residential developments. These are in line with the Government's nationally described space standards. Slight amendments were made to the plans submitted with the appeal and as a result of those changes the main parties are in agreement that the proposed units would comply with the minimum required internal floor areas.
7. Due to the tightly constrained nature of the appeal site, the proposal contains minimal windows and instead relies largely upon roof lights and light wells to provide natural light. Where windows are proposed they are generally obscure glazed and/or screened by barriers in order to protect the privacy of surrounding residential properties.
8. I have had regard to the submitted daylight and sunlight assessment, which despite its title does not assess sunlight. Given the high level of screening required to protect the privacy of neighbouring residents, there is very little scope for achieving direct sunlight into the apartments. I have not been provided with a copy of BS 8206-2:2008 or the BRE Guidance and find the evidence before me unclear. The submitted report states that recommended levels of internal daylight are 2% and that levels in the proposed units would range between 5.17% and 13.16%. In the absence of a copy of the full guidance I am assuming the 2% referred to is a minimum standard as opposed to a recommended standard for dwellings as implied.
9. The daylight distribution diagrams demonstrate that, with the exception of apartment 6, there would be very little spread of daylight into the habitable rooms from the roof lights and light wells. With such a small percentage of the apartments benefitting from natural light future occupants are likely to be reliant upon the use of artificial lighting throughout the day for reading, studying, working, cooking and other general day to day activities.
10. The lack of outlook from the apartments, particularly when combined with the lack of sunlight, daylight, natural ventilation and outdoor space (which I come to next) would result in gloomy, claustrophobic living accommodation, which would not promote health and wellbeing. The lack of windows, natural light, natural ventilation and outlook would in my view fail to provide a satisfactory standard of living environment for future occupants of the development.
11. Policy 50 of the LP also requires all new residential units to have direct access to an area of private amenity space. Apartment 3 would have no private outdoor space at all and whilst the other apartments would, these spaces are generally very small and tightly enclosed with no outlook. The proposal also fails to provide any high quality communal amenity space on site.
12. The appellants refer to the supporting text at paragraph 6.31 of the LP, which states that new homes created by changes of use from non-residential land uses should seek to meet or exceed the standards as far as it is practicable to

do so. Whilst recognising that the site is severely constrained, I do not believe the appellants have done everything practicably possible to achieve a development that does comply with the required standards. Reference has been made to other recent appeal decisions in the area however these pre-date the current LP and as such I can afford them limited weight. The presence of public open space in the area is not in my view a material consideration of sufficient weight to override the current LP requirement for all future occupants to have a small private area of onsite open space.

13. The surroundings are pre-dominantly residential and I agree that replacing the commercial use with residential development would reduce the risk of noise and disturbance to surrounding residents in the future. However this does not outweigh the other harm to living conditions that I have identified.
14. I therefore conclude on this issue that although internal space standards would be achieved the majority of the apartments, due to the lack of natural light, natural ventilation and outlook, would fail to provide a satisfactory standard of living conditions for future occupiers of the development. As such the proposal does not accord with policy 50 of the LP. The proposal would also be contrary to policy 56 of the LP, which requires proposals, amongst other things, to create clearly defined public and private amenity spaces that are designed to be inclusive, useable, safe and enjoyable. It would also conflict with paragraph 127(f) of the Framework, which expects development to provide a high standard of amenity for future occupiers.

Accessible Homes

15. The new LP introduces Policy 51 that requires all new dwellings to be of a size, configuration and internal layout to enable Building Regulations requirement M4(2) 'accessible and adaptable dwellings' to be met. I appreciate that this matter was not raised at the application stage and was not a reason for refusal. However, I am obliged to determine the appeal based upon current planning policy at the time of making my decision.
16. The Council consider that the proposal would fail to comply with policy 51 of the LP due to the units being accessed from multiple levels with only stepped access.
17. The appellants consider this objection to be unreasonable on the grounds that the planning authority appear to be making a determination as to compliance or otherwise with Building Regulations. However, the requirement for new dwellings to meet M4(2) standards is set out in the LP, which has been through public examination and has been adopted. It is therefore part of the development plan.
18. I therefore conclude on this matter that, in the absence of any evidence to the contrary, the proposed units would not be accessible and adaptable and as such would not be in accordance with Policy 51 of the LP.

Parking

19. The Council has also added a reason for refusal relating to parking in light of new LP policy 82, which sets out parking standards for developments.
20. I have considered the evidence put forward by the council however, the parking needs of the proposal should be assessed against those of the existing

lawful development on the site, which the council has confirmed is B8 use subject to no restrictions. Despite the current lack of activity on site, the existing use has the potential to generate as much, if not more, on street parking, at all times of the day and night, from staff, visitors, customers, deliveries etc. than the proposed residential use. This is a material consideration of significant weight that would in my view outweigh policy 82 of the LP in this particular case.

21. I therefore conclude on this matter that the proposal would not lead to an increase on street parking in the area over and above that of the existing lawful use of the site.

Conservation Area (CA)

22. The proposed building would be of the same scale, footprint and massing as the one it would replace. It is surrounded by built development and can only be seen from the rear of adjacent dwellings, in brief glimpses between dwellings or from the adjacent doctors surgery car park and warehouse.
23. The council state that the form of the existing building is not one it seeks to protect or recreate and that a new building type, which responds better to the character of the surrounding area would be more appropriate. However, replacing the existing building with one of very much the same scale would, subject to suitable materials which can be controlled by condition, preserve the character and appearance of the CA.
24. Accordingly, the proposal would be in accordance with LP Policy 61, which seeks to preserve or enhance the significance of Cambridge's heritage assets.

Other Matters

25. Aside from the impact of the design on the living conditions of future residents, the lack of daylight to light, lack of sunshine to heat and the lack of windows to cool the apartments would increase the use of artificial lighting, heating, fans and air conditioning. This is not conducive to sustainable development in terms of reducing energy consumption. Furthermore, the lack of natural surveillance, due to the requirement for windows to be obscure glazed and screened, would also potentially make the site feel unsafe for future occupants and immediate neighbours. This would conflict with LP policies 56 and 57 and the social and environmental objectives of Framework as set out in paragraphs 91, 127(f) and 153.
26. Following the submission of this appeal the appellants submitted an application for prior approval under Class P of The Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), to convert the existing unit into 6 apartments. The council failed to issue a decision within the required timescale and as such that proposal may commence at the developers own risk.
27. However, I am aware of the 2018 amendments to the definition of a building in the GPDO, which for the purposes of Class P does not include any part of a building. It would appear to me that the commercial unit to be converted forms part of a larger building, which is internally sub-divided. In the absence of a decision on the prior approval or a lawful development certificate to confirm that the suggested fallback position is permitted development, I can only give this limited weight.

28. In addition to the matters that I have already addressed, local residents have made representations regarding, amongst other things: school places, overlooking, overshadowing, over development, design, disturbance and nuisance during construction, disturbance and nuisance from future residents of the proposed units, the need for affordable family homes and concerns regarding bin storage and collection. Whilst I have had regard to all matters that have been raised these do not alter my decision.

Conclusion

29. For the above reasons and having considered all matters raised I conclude the appeal should be dismissed.

Rachael Bartlett

INSPECTOR