
Appeal Decision

Site visit made on 18 February 2020

by D Peppitt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6th April 2020

Appeal Ref: APP/B5480/W/19/3242495

No 3-11 Grenfell Avenue, Hornchurch, RM12 4DN

- 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 B Hoffman against the decision of the Council of the London Borough of Havering.
 - The application Ref P1204.19, dated 11 June 2019, was refused by notice dated 15 November 2019.
 - The development proposed is full application for external alterations/enhancements to roof of existing residential building.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has submitted revised plans with the appeal, Ref 17-1302 501A and Ref 19-302 502B, to address one of the Council's reasons for refusal. It removes two windows positioned on the southern side elevation of the building at first floor level.
3. To avoid the risk of prejudicing interested parties it would only be appropriate for me to take the amended plans into account if all interested parties had been notified of them and given an opportunity of making further representations. The amended plans were submitted with the appeal and interested parties would have been notified of the appeal. However, it is unclear if these plans were specifically drawn to the attention of interested parties. The appellant has stated that the amended plans were sent to the Council, but no response was received. However, the lack of a response does not necessarily mean that there would be no objection.
4. Having regard to the Wheatcroft principles¹ and guidance², there is a risk of prejudice if I was to take the amended plans into account. I have therefore determined the appeal on the basis of the plans that were considered by the Council when it determined the application.

¹ Bernard Wheatcroft Ltd vs. Secretary of State for the Environment [JPL 1982]

² 'Procedural Guide Planning Appeals – England', in particular, Annex M, including the advice that the appeal process should not be used to evolve a scheme.

Main Issues

5. The main issues are the effect of the proposed development on:

- the living conditions of the occupiers of the neighbouring properties, with particular reference to privacy and outlook; and
- the living conditions of the future occupiers, with particular reference to the standard of accommodation, light, outlook and provision of outdoor space.

Reasons

Living conditions of the occupiers of the neighbouring properties

6. The appeal site is a pitched roofed former office/warehouse building located off Grenfell Avenue within a commercial yard. The site is set back from the street via an alleyway which opens into a courtyard. To the north of the site are existing light industrial and commercial units with flats above. However, the surrounding area for the rest of the site is predominately residential in nature, with the site in close proximity to the rear gardens of the surrounding residential properties.
7. The principle of residential use on the site has already been established through the prior approval process, although this has not been completed. This proposal is for external alterations to the existing building in order to support its change of use to residential.
8. New windows are proposed in the north elevation that would face the first floor flats on Roneo Corner which are opposite the building. Although the proposal is not directly adjacent to the rear elevation of these properties, the new windows would introduce overlooking into an area that was not previously overlooked by the existing building. The views that would be possible toward the flats would give the occupiers of the flats a sense of being overlooked.
9. The proposal would add two new windows to the south elevation, where there is currently only one window as part of the former use. Given the close proximity of the building to the neighbouring properties and their respective gardens, these windows would increase the opportunity for overlooking, as well as the sense of being overlooked, to the neighbouring properties, particularly for No 15 Grenfell Avenue. This would unacceptably harm the level of privacy afforded to the occupiers of the neighbouring properties, especially when in their garden areas.
10. The appellant has suggested that the proposal would exceed widely accepted good practice guidance in relation to separation distances between habitable room windows. As well as it not significantly changing the relationship between the existing warehouse building and neighbouring properties situated to the south. However, the additional windows would create an increased sense of overlooking and loss of privacy to the detriment of the living conditions of the neighbouring properties.
11. The Council has suggested that the proposal, due to its close proximity to No 13 Grenfell Avenue, would dominate the rear garden and outlook, which would create a sense of enclosure for the occupiers of the property. However, the proposal would not have an extension or increase the external envelope of the existing building in this area. Consequently, the proposal would not represent

an intrusive or overbearing development when compared to the existing building, therefore, it would not materially harm the living conditions of No 13 Grenfell Avenue with reference to outlook.

12. Consequently, while I have found that the proposal would not be harmful in terms of outlook, it would nevertheless, harmfully change the living conditions of the occupiers of the neighbouring properties in terms of overlooking and privacy. Therefore, it would be contrary to Policy DC61 of the Havering Core Strategy and Development Control Policies Development Plan Document (CSDCP) (2008). This Policy, amongst other things, requires development to not result in an unacceptable loss of privacy and to respect the surrounding physical context.

Living conditions of the future occupiers

13. The principle of the provision of residential units has already been established through the prior approval process. This represents a reasonable fallback position, as there would appear to be a greater than a theoretical possibility that the development might take place. The changes proposed by the appeal scheme relate to the internal layout of Flats 3, 4 and 5. Whilst I note that some of the other flats do not meet the standards set out by the DCLG Technical Housing Standards - nationally described space standard (2015) they could be implemented through the fallback position.
14. The appellant has suggested that compared to the implementable prior approval consent (Ref J0005.15), the proposal would result in enhanced living conditions for the future occupiers of Flats 3, 4 and 5. The appellant suggests this is due to the additional internal floorspace and daylight, as well as an improved mix of dwellings in the overall scheme.
15. For Flat 3, only 72% of the Gross Internal Area (GIA) is over 2.3m in ceiling height, which is below the required 75%. The bedrooms would only have natural light from the roof lights and would have no outlook. Flat 4 is below the minimum requirement for a 1 bedroom 1 person unit with a bath, where the requirement would be 39sqm. This flat only has access to natural light through roof lights and would have no outlook. Flat 5 only has 71% of its area above 2.3m ceiling height and in the bedrooms would only have natural light access from the roof lights and would have no outlook to its bedrooms.
16. I acknowledge the proposed scheme for Flats 3, 4 and 5 has meant that the space standards in absolute terms would be met. However, their ceiling heights, light and outlook would cause unacceptable living environments, which would be detrimental to the living conditions of the future occupiers.
17. In terms of outdoor space, the only space proposed would be the sections around the walkways that provide access to Flats 1-4 on the ground floor. The Havering Residential Design Supplementary Planning Document (2010) does not prescribe minimum space standards for private amenity space. However, it does advise that the fundamental design considerations for amenity space should be quality and usability. The proposed area would be very narrow in places and would be located next to the entrances and windows of the ground floor residential units. Due to its size and positioning, it would not constitute usable outdoor space and would be unlikely to be used by the occupants of the other units, leaving them with no access to any green or private outdoor space.

18. I find that the proposed development would harm the living conditions of the future occupiers, with particular reference to the standard of accommodation, light, outlook and provision of outdoor space. Therefore, it would be contrary to Policy 3.5 of the London Plan (2016), Policy DC61 of the CSDCP, the Havering Residential Design Supplementary Planning Document (2010) and the DCLG Technical Housing Standards - Nationally Described Space Standard March (2015). These policies and guidance, amongst other things, require development to be high quality and provide acceptable accommodation.

Other Matters

19. The appellant suggests that the scheme would provide enhancements to the external façade of the existing building which would improve the external appearance. The appellant also states that the proposal would promote new housing development to stimulate growth in the economy. However, these factors do not overcome the harm I have identified.

Conclusion

20. For the reasons set out above, the appeal is dismissed.

D Peppitt

INSPECTOR