



Appeal Decision

Site visit made on 26 May 2020

by M Philpott BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th June 2020

Appeal Ref: APP/Z1510/W/20/3244539

101-103 Manor Street, Braintree CM7 3HR

- 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 H & R Riat against the decision of Braintree District Council.
 - The application Ref 19/01717/FUL, dated 16 September 2019, was refused by notice dated 18 November 2019.
 - The development proposed is the construction of two attached buildings to No. 101/103 containing 4 studio flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: (i) the effects of the proposal on the living conditions of the occupiers of the existing properties within the site; and (ii) whether the proposal would provide an appropriate standard of accommodation for the future occupiers of the development.

Reasons

3. The appeal site is located on a roughly triangular parcel of land which narrows significantly from west to east. It includes a detached building in a west of centre position that extends across its full depth at that point. A car sales business operates from the land to the west and the east of the building. The site is separated from a public right of way by a wall and fence which extend along its northern boundary and, beyond that, is a large building associated with the Braintree Fire Station. Manor Street is located to the south of the site.
4. The building includes 2 studio flats at ground floor level, with one on the western side of the building and the other on the eastern side. Each studio features a combined living and bedroom space (hereafter "living room") on their southern side and a kitchen on their northern side. Part of the ground floor is also used as an office in connection with the car sales business. Above the studios are 2 split-level flats. The floor plans show that each flat has 2 bedrooms on the first floor, with one north of the other, and a kitchen and bathroom on the second floor.
5. The proposal seeks the creation of 4 studio flats by adding extensions to the western and eastern sides of the building. Each extension would accommodate 2 studios, with one at ground floor level and the other at first floor level.

Living conditions for the existing properties

6. The proposed extensions would have ridgelines positioned just below the flats' bathroom windows and be similar in width to the existing building. In order to accommodate the extensions, the eastern studio's kitchen window would be removed, and the eastern flat's northern bedroom window would be reduced to around half its current size. The equivalent windows on the western side of the building would not be altered; however, the extensions would be greater in height and immediately next to the windows.
7. Outlook from the eastern studio's kitchen would be removed entirely and views from the eastern flat's bedroom would be narrowed to the space between the fire station and the extension. Although the windows on the western side of the building would continue to retain outlook in a northerly direction, outlook to the south would be reduced significantly. The alterations to the windows, in combination with the height, width and southerly position of the extensions, would result in an unacceptable loss of light to and outlook from the kitchens and the bedrooms located on the northern side of the building.
8. The side windows to the western studio's living room and both flats' southern bedrooms would also be removed, resulting in these rooms having a single aspect. The windows that would remain face southwards and thus these rooms would continue to receive adequate light levels. In addition, as the flats are served by other living spaces, the reduction in outlook from the bedrooms would not be unacceptable.
9. The western studio's main habitable room is its living room. As the remaining window faces Manor Street with no defensible space in front of it, and there seems to be a relatively high level of footfall along the street, outlook from the window would likely be limited by blinds or curtains to provide privacy. The removal of the side window to the living room would therefore result in a significant loss of outlook. I note that the side windows at ground floor level currently face towards the car dealership; however, these windows nonetheless benefit from not fronting directly onto Manor Street and provide the occupiers with options for balancing their needs for privacy and outlook, which would be lost as a result of the proposal.
10. I recognise that kitchens are not often considered to be habitable rooms. Whilst the eastern studio's kitchen has little space to accommodate seating, such that its usability as a habitable room is limited, the western studio's kitchen is large enough to sit within it. As the studios are small, it is likely that the occupiers would benefit from spending time in the kitchens to provide variety in day-to-day living, as opposed to only spending time in the living rooms. Thus, in this case, the loss of light to and outlook from the kitchens would be harmful to the living conditions of the occupiers of the studios.
11. I note that the existing properties would gain covered entrances and access to the proposed amenity spaces, and the eastern studio's living room would increase in size; however, these benefits do not outweigh the harm identified.
12. I therefore consider that the proposed development would result in unacceptable effects on the living conditions of the occupiers of the existing properties within the site. The development is contrary to policies RLP3 and RLP90 of the Braintree District Local Plan Review (the LPR), policy CS9 of the Braintree District Council Local Development Framework Core Strategy (the

CS) and the National Planning Policy Framework (the Framework) which, amongst other things, seek to ensure that development results in an acceptable living environment for existing occupiers of properties.

13. The proposal would also conflict with policies LPP1, LPP50 and LPP55 of the emerging Braintree District Publication Draft Local Plan (the DLP), which have similar aims to the policies identified above. However, the DLP is currently being examined and the Council is preparing further evidence in support of it. The DLP is thus subject to change and it attracts limited weight in my consideration of the proposal.
14. The Council's decision notice also refers to policies RLP9 and RLP56 of the LPR and policies SP1, SP3 and LPP71 of the DLP; however, these policies do not directly relate to matters relevant to my consideration of the effects of the proposal on the living conditions of the existing occupiers within the site. Therefore, I do not find conflict with these policies in respect of this main issue.

Standard of accommodation

15. Each proposed studio would feature a combined living, sleeping and cooking room and a separate bathroom. The studios would be below the minimum sizes indicated by the Technical housing standards - nationally described space standard (the Standards). However, the Council has not adopted the Standards and the planning policies specified on the decision notice do not impose size requirements. Although not specified on the notice, DLP policy LPP37 states that proposals should accord with the Standards; however, given the stage of advancement of the DLP, I attach limited weight to the policy. I accept that the Standards provide an indication of appropriate dwelling sizes and that the studios would not be particularly spacious. Nevertheless, the studios would be sufficiently large to meet the daily needs of the future occupiers.
16. Each studio would benefit from 2 south facing windows and either a window and a door, or a Juliet balcony, in their side elevation and thus they would receive adequate light levels. Outlook from the ground floor studios would be limited by fencing or parked vehicles to their sides, and likely by blinds or curtains to provide privacy from Manor Street. However, as a result of the number of openings which would serve the studios, outlook from them would not be unacceptable.
17. Properties in the surrounding area are generally separated from the public highway by defensible spaces. However, these spaces are often of limited depth and do not feature physical barriers, with ground floor windows nevertheless close to highways. I consider that the studios would not have a greater vulnerability to antisocial behaviour than properties with limited defensible space elsewhere in the area.
18. The proposed outdoor amenity spaces would be limited in size and usability. I have not been referred to any development plan policies which set out specific size requirements. However, the Essex Design Guide indicates that one bedroom flats may forgo amenity space if there is access to other local open space, and in order to have the benefits of living in a town centre or other core area. The site is located near to the town centre and local open space, notably John Ray Park. Furthermore, the studios are unlikely to be occupied by families. The proposal would not therefore be unacceptable in terms of outdoor amenity space provision.

19. The proposed parking spaces would be smaller than the sizes required for new residential development within the district; nonetheless, the need for parking spaces is reduced as a result of the site's accessible location and, in any case, the spaces would be sufficiently large to be usable.
20. The Council considers that there would be limited natural surveillance of the proposed cycle store and it would be too small to meet the needs of the occupiers. However, there would be windows facing towards the store and enough space around the site for additional storage. In addition, the Council has concerns that the bin store would be in a remote location and unsightly at the eastern end of the site, but it would be screened by fencing and further storage could be provided to reduce the distances travelled to dispose of waste.
21. The proposal would result in the creation of an inaccessible area to the rear of the eastern extension. Whilst it is unlikely that the space would be used to any great extent, a condition could be imposed to enable it to be accessed and, as it would not be apparent from outside the site and surveilled by windows, I do not consider that its existence would be harmful in any event.
22. I recognise the Council's view that the various concerns it has raised regarding the quality of the proposed accommodation should be considered cumulatively. However, even from that perspective, the standard of accommodation would not be unacceptable.
23. I therefore consider that the proposal would provide an appropriate standard of accommodation for the future occupiers of the development. In this respect, the proposal is in accordance with policies RLP3, RLP9 and RLP90 of the LPR, policy CS9 of the CS and the Framework, which seek to ensure that development results in an acceptable living environment for future occupiers of properties. Although attracting less weight, for reasons already identified, the proposal would also accord with policies LPP1, LPP50 and LPP55 of the DLP in respect of this main issue.
24. The Council's decision notice also refers to policy RLP56 of the LPR and policies SP1, SP3 and LPP71 of the DLP in respect of this main issue. However, I do not find conflict with these policies as they are not directly relevant to issues concerning accommodation standards.

Other considerations

25. The appellant has raised that the proposal was informed by pre-application advice from the Council. Be that as it may, I am nonetheless required to reach a conclusion on the main issues in dispute and have identified that the proposal would be harmful.
26. The appellant has raised that a similar scheme was granted planning permission in 2005 but not implemented. In addition, I have been directed to schemes which have been granted planning permission and share similarities with the proposed development. However, the cases are not directly comparable as they are in different locations, promote varying standards of accommodation and have different effects on living conditions. In any event, I have determined the appeal case on its own merits, whilst having regard to the evidence submitted.

Planning Balance

27. The Council has confirmed that it is unable to demonstrate a 5 year supply of deliverable housing sites. Paragraph 11 of the Framework is therefore relevant.
28. In terms of benefits, the development would make use of previously developed land to increase the district's supply of housing by 4 flats in a highly accessible location. There would also be economic benefits from the construction of the development and the future occupiers would likely contribute to the local economy and community. However, as a result of the small scale of the development, these matters constitute limited benefits weighing in favour of the proposal.
29. In respect of the adverse effects of the development, I have found that it would be harmful to the living conditions of the occupiers of the 4 existing properties within the site. It is contrary to policies within the development plan as a result. Given the number of properties that would be negatively impacted, I consider that the adverse effects of the development attract substantial weight.
30. Overall, I consider that the adverse effects of the development significantly and demonstrably outweigh the benefits, when assessed against the Framework as a whole. A decision should therefore be taken in accordance with the development plan.

Other Matter

31. The Council has identified that the site is located within the zone of influence of the Blackwater Estuary Special Protection Area and Ramsar site. Notwithstanding this, the Council has concluded that the proposed development would not have a likely significant effect on the estuary and has not requested any mitigation. Nevertheless, if I had been minded to grant planning permission, I would need to be satisfied that the proposal would have no adverse effect on the integrity of the European protected habitat site. However, as I am dismissing the appeal, I do not need to consider this matter further.

Conclusion

32. I conclude that the proposed development conflicts with the development plan taken as a whole, and no other material considerations outweigh this finding. I therefore consider that the appeal should not succeed.

Mark Philpott

INSPECTOR