

Appeal Decision

Site visit made on 20 October 2020

by K E Down MA(Oxon) MSC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2020

Appeal Ref: APP/H1515/W/20/3250145

Flat 1, Carousel, Highland Avenue, Brentwood, CM15 9DG

- 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 Narone Sugda against the decision of Brentwood Borough Council.
 - The application Ref 19/0127/FUL, dated 15 July 2019, was refused by notice dated 13 September 2019.
 - The development proposed is the conversion of 2No flats to a single dwelling house with rear single storey ground floor extension and loft conversion.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of 2No flats to a single dwelling house with rear single storey ground floor extension and loft conversion at Flat 1, Carousel, Highland Avenue, Brentwood, CM15 9DG in accordance with the terms of the application, Ref 19/0127/FUL, dated 15 July 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) Except as otherwise required by the conditions below, the development hereby permitted shall be carried out in accordance with the following approved plans: Location plan, 1907-PL002 Rev P1, 1907-PL010 Rev P1, 1907-PL001 Rev P1.
 - 3) Prior to the commencement of the loft conversion hereby approved a revised version of plan ref 1907-PL010 Rev P1 shall be submitted to and approved in writing by the local planning authority indicating the location of the proposed roof lights on the elevation drawing and providing details of their specification, including means of opening. The development shall be carried out in accordance with the approved plan.
 - 4) The materials to be used in the construction of the external surfaces of the building hereby permitted shall match those used in the existing building.
 - 5) Before any equipment, machinery or materials are brought onto the site a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with paragraphs 5.5 and 6.1 of British Standard BS 5837: Trees
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in relation to design, demolition and construction - Recommendations (or in an equivalent British Standard if replaced) shall have been submitted to and approved in writing by the local planning authority. The scheme for the protection of the retained trees shall be carried out as approved.

Main Issues

2. There are two main issues. Firstly, the effect of the proposed loft conversion on the living conditions of occupiers of the development with respect to light, ventilation and outlook; and secondly, the effect of the proposed development on housing supply in the area with respect to the loss of one unit.

Reasons

3. The appeal property is a modern detached two storey building in a quiet, tree lined, residential street characterised by dwellings of different ages, design and size. Some are single dwelling houses others are large older properties some of which have been divided into flats. The appeal property is arranged as two flats, one on each floor. The proposal is to combine the flats to create a single family dwelling and to add a single storey rear extension and loft conversion.
4. The Council does not object to the single storey rear extension and I agree this would be acceptable.
5. The proposed loft conversion would be lit by six roof lights. This is not an unusual arrangement in a loft conversion. Roof lights would allow equivalent daylight penetration as windows of a comparable size and in most cases they open to allow ventilation. This could be secured by a planning condition. Outlook from roof lights may be restricted due to their height above floor level. It is not clear from the submitted plans whether this would be the case. Nevertheless, the building has an open and pleasant outlook from windows on the ground and first floor and a generous garden. I am not therefore persuaded that a restricted outlook to two bedrooms would materially harm the living conditions of occupiers of the dwelling as a whole.
6. It is concluded on the first main issue that the proposed loft conversion would have no materially detrimental effect on the living conditions of future occupiers with respect to light, ventilation or outlook. In consequence the loft conversion would comply with Policy CP1 of the Brentwood Replacement Local Plan (LP), 2005, and the National Planning Policy Framework (NPPF) which, amongst other things, expect new development to promote health and well-being through a high standard of amenity for future uses such that it would not have an unacceptable detrimental impact on the general amenities of occupiers.
7. Turning to the second main issue, Policy CP1 vi) of the LP resists the net loss of a residential unit and on this basis the Council objects in principle to the amalgamation of the two flats. This is a relevant policy and is the most important in the consideration of this issue. Explanatory text set out in paragraph 2.11 explains that the policy aim is to ensure that maximum use is made of existing housing stock and to resist the loss of residential space to other uses. It further notes that potential loss is often of small units which make a valuable contribution toward the housing stock in terms of housing choice and affordability. In this context existing residential units should be retained and the loss of such accommodation to other uses resisted as far as possible. It is

- therefore clear that the main thrust of the policy is to resist the loss of residential floor space to other uses but in particular the loss of smaller units.
8. The monitoring target for Policy CP1 vi) is no overall net loss in the number of existing residential units.
 9. The LP predates the NPPF and therefore the degree of conformity between the LP and the NPPF is relevant. The greater the conformity the greater the weight that can be afforded to the policy, notwithstanding its age.
 10. The NPPF states in paragraphs 60 and 61 that to determine the minimum number of homes needed in an area, policies should be informed by a local housing need assessment. Within this context the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. Such groups should include, amongst others, families with children and older people.
 11. Whilst the NPPF supports the Government's objective of significantly boosting the supply of homes it makes clear that the range of homes as well as the number is important in order to meet the needs of present and future generations. The NPPF does not therefore resist changes to existing housing stock where this would meet a demand for another form of residential accommodation in the area. I therefore find that Policy CP1 vi) does not conform with the NPPF in that it does not allow for such flexibility. In consequence it is considered to be out of date and cannot be afforded full weight. Moreover, NPPF paragraph 11.d)ii., relating to the presumption in favour of sustainable development, is engaged.
 12. The Council does not provide a housing need assessment to show what the relative mix of market housing need is in the area. It does refer to the most recent Five Year Land Supply Statement as at 31 March 2019. This indicates that at that date the Council had a 2.36 year housing land supply. This is clearly a significant undersupply and, in addition to Policy CP1 vi) being out of date, would trigger the provisions of NPPF paragraph 11 d) ii. Nevertheless, in the absence of any evidence to show that there is a materially greater need for small units compared with the need for family dwellings, this strategic indicator is of limited relevance in the context of this case.
 13. The appellant who owns and occupies the appeal building has a young family and an elderly relative who lives with the family. The existing arrangement of the building as two flats does not therefore readily meet their housing needs. He has submitted evidence showing that over the past ten years some 106 extra dwellings, including a significant number of flats, have been permitted within 500m of the appeal site. In some cases these schemes convert larger dwellings into one and two bedroom units. The appellant therefore argues that, not only would there be an increase in residential floor space and bed space, there would be no overall net loss in the number of existing residential units in the area if the appeal property was converted to a single dwelling. The Council does not dispute this.
 14. Nevertheless, the Council considers that none of the examples highlighted by the appellant are directly relevant to the appeal site. However, although it refers to planning decisions and appeal decisions supporting the prevention of loss of residential units it does not provide any evidence of these decisions. I

cannot therefore assess whether the cases referred to are comparable with the appeal case. Moreover, although it suggests that the emerging local plan provides a good indication of the direction of travel, despite carrying limited weight at present, no emerging policies have been drawn to my attention as being relevant.

15. In accordance with NPPF paragraph 11.d) ii. planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. Notwithstanding the absence of a five year housing land supply, the lack of any compelling up to date evidence demonstrating that the need for the existing two bedroom flats would significantly outweigh the benefit of providing additional family housing in the area or that the proposed development would be significantly detrimental to meeting the housing needs of different groups in the community, indicates that the development benefits from the presumption in favour of sustainable development and this weighs in its favour. This is a material planning consideration.
16. It is concluded on the second main issue that, notwithstanding the loss of one residential unit, the proposed development would have no materially detrimental effect on housing supply in the area. Although there would be a conflict with LP Policy CP1 vi), material planning considerations outweigh this and indicate that the appeal should be determined other than in accordance with this policy due to the engagement of the presumption in favour of sustainable development set out in the NPPF. Overall and in the absence of any other harms the appeal should therefore succeed.
17. In addition to the statutory commencement condition the Council suggests further conditions requiring the development to be carried out in accordance with the approved plans and using matching materials on external surfaces. I agree these are necessary for the avoidance of doubt and to protect the character and appearance of the area. The Council notes that the roof lights in the proposed loft conversion are not shown on the elevation drawing. I agree that a revised drawing to indicate these should be submitted and approved before the loft conversion is carried out. I will therefore impose a condition to this effect for the avoidance of doubt.
18. Finally, the Council suggests that existing trees in the rear garden and adjacent to the site, including within the highway, should be protected during the construction period. I agree that to protect the character and appearance of the area this is necessary. However, the NPPF advises that pre-commencement conditions should be avoided unless there is a clear justification. In this case a condition requiring an arboricultural scheme to be approved and implemented prior to materials, equipment or machinery being brought to the site would adequately address the protection of trees.
19. For the reasons set out above and having regard to all other matters raised, I conclude that the appeal should be allowed.

KE Down
INSPECTOR