



Appeal Decision

Site visit made on 21 January 2021

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 16 March 2021.

Appeal Ref: APP/ M3645/W/20/3256607

139-141 Clearway Court, Croydon Road, Caterham CR3 6PF

- 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 TISL Holdings Ltd against the decision of Tandridge District Council.
 - The application Ref: TA/2019/275 dated 25 January 2019, was refused by notice dated 3 July 2020.
 - The development proposed was described on the application form as 'extension to the roof of the building to create a third floor; change of use of ground, first and second floors to flats following prior approval for conversion to residential, together with car parking, 22 flats in total (12 x 1 bed flats and 13 x 2 bed flats)'.
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Decision

1. The appeal is dismissed.

Application for Costs

2. An application for costs was made by TISL Holdings Ltd against Tandridge District Council. The application is the subject of a separate decision.

Procedural Matters

3. The description of development was changed at the application stage, following agreement between the Applicant and the Council to *Construction of third floor to comprise 2 x one bedroom and 4 x two bedroom flats and provision of associated balconies; provision of associated parking.*
4. The existing office building has been granted prior approval for the conversion to 16 residential units under the Council's reference TA/2017/1399. I shall use the description as agreed between the parties, taking into account the prior approval already granted. Whilst the prior approval decision has granted approval for the conversion of the existing building into residential units, my attention has not been drawn to any permissions relating to associated physical changes to the building, including with regard to the provision of an additional storey as proposed in this instance.
5. Amended plans were received during the application process to correct errors in the submitted plans. My consideration is based on the plans determined by the Council.

Main Issues

6. The main issues in this appeal are:

- a) whether the proposal would create a satisfactory living environment for future occupiers.
- b) the effect of the proposal on the living conditions of neighbours within Ashton Court, with particular regard to overlooking and loss of privacy, and
- c) The effect of the proposal on the character and appearance of the local area.

Reasons

Issue a) Satisfactory Living Environment for Future Occupiers

7. Clearway Court is an existing three storey building on the west side of Croydon Road, within a mixed use area of office, residential and commercial uses. The proposal would create an additional floor to the existing building at roof level to create a further six flats, in addition to those allowed under the prior approval scheme.
8. Each flat would be within the roof space and many of the habitable rooms, including living rooms and bedrooms would have part sloping roofs. Each flat would have a balcony with full length glazed fenestration leading off the living rooms and the rest of the rooms would rely on rooflights in the roof slopes.
9. The National Planning Policy Framework (Framework) at Paragraph 127 f) sets out that developments should create places which, amongst other things, have a high standard of amenity for existing and future users. Policy DP7 criterion 8 of the Tandridge Local Plan Part 2: Detailed Policies 2014-2019 (Local Plan) also seeks a satisfactory living environment for the occupiers of both the existing and new development.
10. In most of the flats, only one of the habitable rooms (the living area) would be served by a glazed full length door/window, with the remainder of the rooms being served by roof lights only. Whilst this would not necessarily be an issue in respect of either light or ventilation, this would not in my view create a high quality living environment, with particular regard to outlook. I am particularly concerned about the layout of Flat U where the single, glazed opening to the balcony would be in one corner of the living/ dining room and kitchen, with the living area at the other end of the long room. Although the space would benefit from two rooflights, I do not consider that this would be adequate compensation to ensure a high quality living environment for future occupiers of this flat, particularly in terms of outlook.
11. I therefore conclude that the proposed flats would not provide a high quality and satisfactory living environment for future occupiers, with particular regard to outlook. This would conflict with the Framework and Policy DP7 of the Local Plan in this regard.
12. The appellants have pointed out that the residential development to the south at Ashton Court has a similar arrangement of fenestration for the upper floor flats. That permission was granted some time ago and I am not aware of the particular circumstances leading to that permission. However, the existence of such an arrangement elsewhere does not persuade me that more should be

permitted given the harm I have concluded and the conflict with the Framework and the development plan policy.

Issue b) Effect on Living Conditions of Neighbours in Ashton Court

13. The adjacent residential development to the south of the appeal site is a residential flatted development, Ashton Court. A number of these flats have windows and balconies facing towards the appeal property and in particular the central courtyard between the two blocks. Two of the proposed flats (S and T) would have projecting balconies which, given the limited distances between the two blocks would, without screening, result in overlooking and loss of privacy for the neighbours in Ashton Court when using their balconies.
14. This would in my view cause unacceptable harm to the living conditions of the neighbours in Ashton Court and would conflict with the Framework, Policy CSP18 of the Tandridge District Core Strategy (Core Strategy) and Policy DP7 of the Local Plan, all of which amongst other things seek to protect the amenities of neighbouring residents.
15. I agree with the appellants that the existing offices have windows facing towards these balconies and the proposed flats at lower levels in the appeal building would also have windows facing towards these balconies. However, this does not in my view compare with the direct overlooking and loss of privacy that would occur from people standing out on their balconies and looking towards the neighbouring balconies. Moreover, the proposed balconies for Flats S and T would be at a greater height than the existing windows on the lower floor flats and would therefore afford a greater elevated outlook over the neighbouring Ashton Court flats. I therefore attach limited weight to the existing office situation or the prior approval scheme to convert the existing office accommodation to residential units.
16. This issue could potentially be resolved and the identified harm overcome through the imposition of a condition to require the balconies to the flats to have appropriate privacy screening imposed. However, I am concerned that the effect of suitable screening to overcome the harm through overlooking and loss of privacy to the adjacent flats would be to reduce unacceptably the outlook for the residents of these two proposed flats. This is particularly the case because the windows leading out to the balconies would be the only full windows to serve each flat. Screening, in my view, is normally most effective to the sides of balconies to avoid sideways overlooking between flats, and I do not consider that screening around the balcony for both of Flats S and T as would be required to overcome the identified harm, would be acceptable in terms of the quality of the living conditions of future occupiers of these flats.
17. I am not therefore satisfied that the imposition of a condition requiring the addition of privacy screening to the affected balconies would be an appropriate way forward as the means to overcome the harm identified under this second issue would exacerbate the harm I have already found under my first issue.

Issue c) Character and Appearance

18. There is considerable variety to the buildings along both sides of Croydon Road, ranging from some smaller scale older buildings to newer developments, particularly along the western side. The land also slopes steeply from east to

west and also sloping from south to north. As a result, there is a very divergent range of plot sizes, building lines as well as building heights and forms.

19. Although Clearway Court is one of the taller buildings on the west side of the road and sited further forward than its neighbour to the south at Ashton Court, there is considerable variety to the building sizes and roofscapes, particularly to the south of the appeal property. The additional floor as proposed would add to the overall height of the appeal building but given the very broad range of building forms and heights in the vicinity, I do not consider that it would materially harm the character and appearance of the local area. In addition, the existing frontage design of the existing building would disguise part of the additional height.
20. There would be limited opportunity for landscaping but given that this proposal relates to an additional floor to an existing building, this would not in my view be a justification on its own for withholding planning permission. Each proposed flat would benefit from a balcony providing an element of amenity space for the future occupiers.
21. Taking all these factors into account I do not therefore consider that the proposal would be an overdevelopment of the site. I further conclude that the proposal would respect the character and appearance of the local area. There would be no conflict with the Framework or Policy DP7 of the Local Plan or Policy CSP18 of the Core Strategy, all of which amongst other things, seek a high quality of design which respects the local context.

Other Considerations

22. Concerns have been raised by the Parish Council about parking pressures in the local area but I have not provided with any further information to support their concern. I understand that the proposed number of spaces would be below the Council's parking standards but the location of the site is within a main settlement where lower levels of parking are accepted because of the site's connections to the town centre. The Highway Authority has raised no concerns and I have no reason to find differently. The Council also did not raise this as a reason for refusal.

Planning Balance

23. The proposed dwellings would make a contribution of six additional residential units to the Council's housing supply. The appellants have referred to the Council's need for a significant number of additional new homes in the emerging development plan and in the Officer's report there is a reference to the Council's clear need for new housing. At the very final stage of the submission of evidence in respect of the application for costs the Appellant has referred to the Council no longer being in a position to demonstrate a five year housing land supply, but I have been given no further detailed information in this regard. However, I have nonetheless undertaken a planning balance assessment on the basis that this reflects the position that the Council now finds itself in.
24. Paragraph 11 of the Framework sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, 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. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.

25. The amount of weight to be given to development plan policies is a matter of planning judgement for the decision maker. In the context of the development plan I have found that the proposed development would be contrary to policies Policy CSP18 of the Core Strategy and Policy DP7 of the Local Plan in respect of providing a high quality living environment for future occupiers and to protect the amenities of existing neighbours. For this appeal, I have found these policies to be generally consistent with the relevant aims of the Framework and I attach substantial weight to them.
26. Paragraph 59 of the Framework refers to the government's objective to boost significantly the supply of housing, and paragraph 68 confirms that small and medium sized sites can make an important contribution to meeting the housing requirement of an area. In this instance, the proposal would contribute six additional units.
27. When judged against some of the core planning principles the proposal would perform well in that it would be in a mixed use area where access to facilities and services is likely to be greatest. In terms of its component dimensions there would be a social benefit in providing six additional units. Economic advantages would also arise from the construction and occupation of these units.
28. I have found that the proposal would not cause harm to the character and appearance of the local area, but this would not outweigh the harm I have concluded to the living conditions of future occupiers. Creating a good quality living environment for both existing and future occupiers is a key aspect of sustainable development, as set out under the development plan and the Framework. The harm I have concluded would be significant and as a result the social and environmental roles of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the benefits. Therefore, the proposal would not be a sustainable form of development. The conflict with the development plan is not outweighed by other considerations including the Framework.

Conclusion

29. For the reasons given above and having regard to all other matters raised, including in representations, I conclude that the appeal should be dismissed.

L J Evans

INSPECTOR