



Appeal Decision

Site Visit made on 9 March 2021

by Steven Rennie BA (Hons), BSc (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 April 2021

Appeal Ref: APP/N1920/W/20/3259141

Rutland Place, The Rutts, Bushey Heath, Bushey, WD23 1ND

- 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 Ultratown Limited against the decision of Hertsmere Borough Council.
- The application Ref PP/20/0872/FUL, dated 17 June 2020, was refused by notice dated 13 August 2020.
- The development proposed is the construction of single storey roof extensions to Blocks A & B to provide 7 new residential dwellings (6 x 1 bed & 1 x 3 bed) to include increase in parapet height, roof lights, roof terraces with glass balustrade and associated parking and refuse storage.

Decision

1. The appeal is allowed and planning permission is granted for the construction of a single storey roof extension to Blocks A & B to provide 7 new residential dwellings (6 x 1 bed & 1 x 3 bed), to include an increase in parapet height, roof lights, roof terraces with glass balustrade, and associated parking and refuse storage, at Rutland Place, The Rutts, Bushey Heath, Bushey, WD23 1ND, in accordance with the terms of the application, Ref PP/20/0872/FUL, dated 17 June 2020, subject to the conditions in the Schedule that accompanies this Decision Letter.

Preliminary Matters

2. I have taken the more detailed description of development from both the Appeal Form and the Notice of Decision, as this provides more detail to that set out on the Application Form.

Main Issues

3. The main issues are the effect of the development on:
 - The character and appearance of the area;
 - The living conditions of neighbours to the site;
 - Parking provision and highway safety; and
 - Existing trees at the site.

Reasons

Character and Appearance

4. The proposal is for an additional storey to the existing two blocks (Blocks A and B) of this flatted residential development. The main larger building (Block A)

appears currently as three storey from the front (facing The Rutts) and four storey to the rear (incorporating garaging). The proposal would add a single storey so this would appear four storey in height to the front and five storey to the rear. This would maintain a flat roof, though with some box-shape plant rooms also on this roof area. Similarly, the smaller Building B would go from two to three storeys.

5. It is clear from my site visit that the prevailing character of this area is two storey residential properties, often with pitched roofs. There are some other buildings which differ from the norm, including the three storey flat buildings known as White Oaks adjacent to Rutland Place, but these are very much in the minority. However, Rutland Place is an established development which has been in this location for decades. In this time, it has never been a building which has visually reflected the prevailing character of The Rutts. Another storey of accommodation would not materially change this.
6. Both building blocks would be higher than existing, though Building B would only be three storeys, which would be similar to some of the neighbouring buildings. It is closer to the road and in a more prominent position than Block A, but it would still be of an overall height subservient to Block A and as it has a flat roof it would not be much different in overall height to some of the other properties in the area.
7. The additional storey to Building A would make it a particularly tall building, though this building is well set back from the road with a landscaped frontage and so not overly prominent. This additional storey would not increase the overall height to such an extent that it would be significantly more dominant or prominent than it currently is. I also note that the additional storey is set in from the sides of this building block which also helps reduce its visual impact and would not be a bulky addition.
8. In conclusion, I would regard the proposals as being of a suitable design and scale as additions to the existing buildings. For these reasons the proposed development would not be harmful to the character and appearance of the area. It is therefore in accordance with policies CS22 of the Core Strategy 2013 and SADM30 of the Site Allocations and Development Management Policies Plan 2016. These policies require development to be of high quality design and makes a positive contribution to the built and natural environment, amongst other things.

Living Conditions

9. The existing blocks of flats are within a residential area. Therefore, there is the potential for the additional flats at a high level to adversely affect the living conditions of neighbours to the site.
10. To the south of the site is White Oaks, which is a three storey flatted development which has side elevation windows facing Block A of Rutland Place. Whilst the new flats would be visible, they would be a significant distance from the side of White Oaks. There would be the shared terrace to the southern side of Rutland Place as proposed, but there would still be a sizable separation distance and also the proposed planter around the edge of this communal area should prevent more direct views into the property of White Oaks by preventing people standing near the edge of the terrace where there could be more direct views.

11. There would be some views from the proposed flats of Block A towards the flatted development of Tamworth Court to the rear of the site. However, this would be at a separation distance that would sufficiently mitigate any overlooking impact. There are also the mature trees that would provide a good level of screening. Furthermore, I note that there is already a level of overlooking from the existing rear elevation windows of Block A towards this neighbouring property and so any increase in overlooking over and above existing levels would be minimal.
12. The northern side of Block A is close to the rear boundaries of three properties along Belle Vue Lane, which include Evergreen, Ravencroft and No 24 Belle Vue Lane. The proposed additional storey of flats of Block A would be set away from the side of this block nearest these properties, with a communal terrace to this side. Views from this terrace at Block A would be mitigated sufficiently by the proposed planter around the sides. The possible oblique views from the proposed balconies would not result in any unacceptable loss of privacy, especially considering the separation distances from these nearest private terrace/balconies. There are also the existing mature trees (many protected by a Tree Preservation Order) which would provide some level of screening also. As such, the layout as proposed at Block A would sufficiently safeguard privacy levels from any adverse impact.
13. There is also the additional storey with a new flat to the top of Block B, which is close to the rear boundary of No 24 Belle Vue Lane and the side boundary of No 5 The Rutts. I am satisfied that views from the proposed front and rear windows in this block would be oblique and would not result in significantly greater overlooking than existing from this block towards these neighbouring properties. However, there could be views from the side of the proposed terraces to the front and rear of this block which could provide more direct views into these properties and so it would be necessary and reasonable for a condition for a form of balcony screening which could prevent such loss of privacy.
14. Although the proposed additional storeys would be visible from neighbouring properties, they would not be of a size that would be overbearing to the living conditions of occupants or significantly impact outlook, especially considering the separation distances from the boundaries. From the evidence provided I am also satisfied that the proposed development would not result in any significant increase in overshadowing impact, especially given the distance to the boundaries with neighbouring properties.
15. In terms of the impacts to existing occupants of Rutland Place, any impact as a result of the construction phase would be for a relatively short time. I also have no reason to conclude that the additional floor would result in any significant adverse impacts, such as from additional noise, to the occupants of the current top floor flats. Any overlooking from the communal terraces or new flats into current communal areas would also not reduce privacy to any great extent as there are already windows of flats overlooking these areas generally. Any increase in overshadowing of communal outdoor areas as a result of the proposed development would be minimal.
16. It is likely that the terraces and communal outdoor areas as proposed would mean people could congregate outside. However, there is no substantive evidence before me that this would lead to significant levels of noise and

disturbance on a frequent basis, or substantial light pollution issues. There are already outdoor communal areas around the buildings at Rutland Place and I have no detailed evidence that this has led to disturbance issues.

17. To conclude, the proposed development would not result in any significant adverse impacts to the living conditions of neighbours to the site, including those at Rutland Place. The proposal is therefore in accordance with policy SADM30 of the Site Allocations and Development Management Policies Plan 2016, which requires development to have limited impact on the amenity of occupiers of the site, its neighbours, and its surroundings in terms of outlook, privacy, light, nuisance and pollution, amongst other things.

Parking Provision

18. The proposal includes six more parking spaces for the seven additional flats. The Council's Car Parking Standards Supplementary Planning Document (SDP) states that the development would require 11 spaces for the proposed additional flats. However, as recognised by both main parties, the site lies within the Bushey Heath Residential Accessibility Zone 3, which is an area of very good accessibility being that it is close to High Road for example. In such areas car parking spaces could be between 50 – 100% of those stated in the Car Parking Standards Supplementary Planning Document (SPD). Six parking spaces are proposed, which is over the 50% mark of the 11 required by the SPD. I would conclude that the provision is policy compliant. The level of car parking would be sufficient given the accessible nature of the site, near to the High Road for example.
19. In terms of the parking layout, concern has been raised by the Council regarding space No 6. It does appear that it may be slightly awkward getting into and out of this space especially with a large car, if the adjacent space No 5 is occupied. However, it is manageable as the appellant evidence shows with the swept path diagrams. As such, whilst not an ideal layout it is a parking space that is likely to be used by a future occupant. These new parking spaces should not result in any significant issue with access to the existing basement level garages, with sufficient space adjacent to these garages set to remain.
20. The Council has also raised concern with the parking spaces proposed within what appears to be a turning head. However, it does not appear that this turning head is particularly necessary for other vehicles to turn within the site. As such, these parking spaces (Nos 1 and 2) are suitably positioned.
21. Overall, the proposal includes suitable additional parking provision, which should have no significant impact to the communal outdoor space of occupiers. Furthermore, the level of additional traffic that this development would likely generate would not be to a level that would have any significant effect to the highway network. I have no substantive evidence before me that the development would result in any material detriment to highway safety.
22. For these reasons the proposal accords with policies SADM40 of the Site Allocations and Development Management Policies Plan 2016, which requires development to provide off-street car and cycle parking consistent with the Parking Standards SPD, amongst other things.

Tree Impacts

23. The site includes many mature trees, many of them protected under a Tree Preservation Order (TPO). Some trees are to be removed, although in my view there would be no detrimental impact to the visual amenity of the site by the relatively minor loss of these trees. However, the Council have raised concern with the proposed pollarding of a mature oak tree (which has a TPO). This is a prominent tree of positive amenity value.
24. In response, the appellant states that the tree has been previously pruned and this has had no effect on the health or amenity value of this tree. From my observations the tree appeared in good condition and it seems likely that there may be a history of it being managed in the past. The situation will unlikely alter much in the future as a result of the additional storey on the adjacent building.
25. The development would be close to a number of existing trees which are to remain. Whilst I understand that there can be pressure to cut back or even fell trees, there is no substantive evidence before me that would convince me that this is the case if the additional storey were to be added to the on-site buildings. Most trees shall remain to what is a well landscaped site.
26. Overall, the proposals will not have a detrimental impact on the TPO Oak tree or any other tree on site. As such, on this matter the development is in accordance with Policies CS12 of the Core Strategy 2013 and SADM12 of the Site Allocations and Development Management Policies Plan 2016. These policies require that development conserve and enhance the natural environment and safeguard healthy, high quality trees subject to a Tree Preservation Order, amongst other things.

Other Matters

27. I acknowledge that there has been a substantial amount of objections received, which have all been taken into consideration. Many of the points raised in these objections have been covered in the above main issues. However, there are some other issues not addressed above.
28. On the matter of bins and waste collection, I note the Council considered the proposed refuse store to be suitably located and of sufficient size, which I would agree with. Furthermore, whilst there may be some current issues with waste storage, I have no substantive evidence that the proposed additional flats would not have their waste suitably managed.
29. The area around the site and also within the curtilage of Rutland Place is verdant in character and likely to support various forms of wildlife. However, the proposed development for an additional storey of flats would, from the evidence before me, have little or no impact to protected species or wildlife in general. For instance, I note the comments from the Council Ecologist in this regard, who concluded that the "age, design and condition of the building suggest that the likelihood of bats roosting or sheltering in the building is slight".
30. I have had regard to all the other issues raised by interested parties, such as flooding at the site, fire regulations, access to the flats, future structural issues, maintenance costs, the proximity to an aerodrome, and concerns over existing aerals, among other things. However, whilst I have considered all these

matters raised there is not the substantive evidence of harm with these matters that would lead me to dismiss this appeal.

Conditions

31. I have considered the conditions put forward by the Council against the requirements of the Planning Practice Guidance (PPG) and the National Planning Policy Framework. The conditions I have included from the recommended list have been subject to some alterations to improve clarity and ensure consistency with the Framework and PPG. I have also added some more conditions where I have felt it necessary and reasonable to do so.
32. I have attached the standard time limit condition and a plans condition as this provides certainty. I have also added a condition concerning materials to ensure a satisfactory appearance.
33. Due to the close proximity of trees around the existing residential blocks it is necessary for tree protection to be in place through the course of construction. A condition to this affect is to be imposed.
34. Due to the scale of the proposed works it is necessary to impose a condition for a construction management plan, to ensure the impacts of the construction process are minimised in the interests of highway safety.
35. External lighting in association with the development could have a detrimental impact to neighbour living conditions, such as from the proposed terraces, and so there is a necessity for an external lighting condition.
36. To safeguard neighbour amenities, particularly from loss of privacy, conditions requiring details of the planting area and balustrades for the proposed roof-level communal terraces and balcony screens for the additional flat at Block B are also required.
37. The proposed sedum roofs would provide towards a net biodiversity enhancement. A condition is necessary to ensure these sedum roofs are managed and maintained in the future.
38. To ensure adequate vehicle and cycle parking spaces a condition requiring these aspects of the development to be in place prior to the occupation of the development will be imposed. Likewise, details of the bin storage shall be required to be submitted for agreement by the Council to ensure sufficient waste management for the new flats.
39. Some of the conditions require action prior to the commencement of development. I am satisfied that there is exceptional justification for imposing these pre-commencement conditions, which have also been agreed by the appellant.

Conclusion

40. For the reasons given and in consideration of all matters raised, I conclude that the appeal should succeed, subject to the following conditions in the schedule.

Steven Rennie

INSPECTOR

SCHEDULE – CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans:
RP_PL_101 LOCATION & SITE PLAN
RP_PL_101 EXISTING - SITE PLAN
RP_PL_102 EXISTING - BASEMENT LEVEL
RP_PL_102 EXISTING - GROUND FLOOR LEVEL
RP_PL_104 EXISTING - THIRD FLOOR LEVEL
RP_PL_105 EXISTING - ROOF LEVEL
RP_PL_110 EXISTING - ELEVATIONS - BLOCK 'A'
RP_PL_111 EXISTING - ELEVATIONS - BLOCK 'B'
RP_PL_120 EXISTING - SECTIONS
RP_PL_200 PROPOSED - SITE PLAN
RP_PL_204 PROPOSED - THIRD FLOOR LEVEL
RP_PL_205 PROPOSED - FOURTH FLOOR LEVEL
RP_PL_206 PROPOSED - ROOF LEVEL
RP_PL_210 PROPOSED - ELEVATIONS - BLOCK 'A'
RP_PL_211 PROPOSED - ELEVATIONS - BLOCK 'B'
RP_PL_220 PROPOSED - SECTIONS
- 2) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 3) Prior to their use in the development hereby approved, samples of the materials to be used in the construction of the external surfaces of this development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
- 4) NO WORKS OR DEVELOPMENT SHALL TAKE PLACE BEFORE a scheme for the protection of the existing trees subject of a Tree Protection Order has been submitted to and approved in writing by the Local Planning Authority. Such a scheme will comply with the provisions of BS5837 ("Trees in relation to construction – 1990"). The approved scheme for the protection of the existing trees shall be implemented BEFORE DEVELOPMENT COMMENCES and be maintained in full until the development has been completed.
- 5) PRIOR TO THE COMMENCEMENT of the site works, the applicant shall submit a construction management plan setting out details of any demolition works, the removal of materials from site, parking for all

contractors, subcontractors, visitors and delivery vehicles, and storage of materials, to be approved in writing by the Local Planning Authority. The construction works shall thereafter be undertaken in full accordance with the agreed construction management plan.

- 6) Prior to the installation of any external lighting associated with the development hereby approved, details of all such external lighting including the location, design, height and the intensity of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter only be implemented as approved on site.
- 7) Prior to the use of the communal terraces hereby approved, full details of the balustrades, raised planting structures and screening for the communal terraces, including their level of obscurity and heights, shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority prior to the first occupation of the development hereby approved and shall remain in place thereafter.
- 8) Prior to the first occupation of the flat hereby approved at Block B, details of balcony screens to the side of the balconies at Block B that face towards No 24 Belle Vue and No 5 The Rutts, including their height and material (including obscurity levels), shall be submitted to and approved in writing by the Local Planning Authority. The balcony screens as agreed shall be in place prior to the first occupation of the additional flat at Block B and remain in place thereafter.
- 9) Prior to occupation of the additional flats hereby approved, the sedum roofs as shown on the approved plans shall be in place and shall remain thereafter. Furthermore, prior to occupation of the additional flats a management plan for the sedum roofs shall be submitted to and agreed in writing by the Local Planning Authority. The sedum roofs shall be thereafter managed and maintained as per the agreed plan.
- 10) Prior to the first occupation of the flats hereby approved, the car and cycle parking spaces shall be in place and laid out as shown in the approved plans. The cycle and car parking spaces shall thereafter be retained for this use.
- 11) Prior to the first occupation of the flats hereby approved, details of the bin storage area and structure for the additional flats shall be submitted to and approved in writing by the Local Planning Authority. The bin storage shall be implemented as agreed prior to the first occupation of the flats hereby approved and shall remain as such thereafter to provide this function.

END OF SCHEDULE