



Appeal Decision

Site Visit made on 19 October 2021

by Benjamin Clarke BA (Hons.) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st November 2021

Appeal Ref: APP/N1920/W/21/3272130

Oakmere Mews, Oakmere Lane, Potters Bar EN6 5DT

- 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 Prince Motor Group against the decision of Hertsmere Borough Council.
 - The application Ref 21/0190/FUL, dated 28 January 2021, was refused by notice dated 25 March 2021.
 - The development proposed is the change of use from vehicle repairs, maintenance, valeting and office into two self-contained flats.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant has submitted a revised scheme as part of the appeal documentation. Whilst it is contended that this would overcome some of the Council's concerns, this would amount to a new proposal on which the occupiers of neighbouring properties would not have had the opportunity to comment. In result, I have determined the appeal with reference to the plans considered by the Council.

Main Issues

3. The main issues in this appeal are:
 - whether the development would provide appropriate living conditions for the future occupiers of the development, with particular reference to light and outlook; and
 - the effect of the development upon the living conditions of the occupiers of the nearby property of Reliant House, with particular reference to outlook.

Reasons

Future occupiers living conditions

4. The proposed development consists of the change of use of the existing single-storey building. The appeal site's surroundings contain several buildings, some of which are of multiple storeys. The proposed development includes gardens to the front of the dwelling, surrounded by fencing. Neighbouring land uses are a combination of commercial and residential activities.

5. The proposed development would feature windows on the front elevation. In consequence, the rooms would experience a limited amount of outlook. This is due to the enclosing effect arising from the proximity of the proposed boundary treatment to the windows. Whilst the proposed development features some roof lights, these would not offer a significant amount of outlook.
6. In addition, owing to the positioning of the proposed development's boundary treatments, the internal spaces of the proposed development would also experience a relatively limited amount of light. This means that the internal space would not be of a sufficient quality to secure appropriate living conditions for the future occupiers of the dwellings. This would occur irrespective of the proposed design of the fenestration. The lack of light would also occur irrespective of the installation of the proposed rooflights by reason of their positioning.
7. In addition, the relatively restricted size of the appeal site means that the depth of gardens is short. When this is combined with the limited width of the two gardens, users of this space would not experience satisfactory levels of outlook. This is due to the proximity of relatively high boundary treatment surrounding the garden area. Therefore, appropriate living conditions would not be secured for the future occupiers of the development, even though the outside space could be used for some activities.
8. This adverse effect would be exacerbated by the presence of relatively tall buildings close to the appeal site's side boundaries. This would contribute to the generally enclosed character of the garden and would also, at times, restrict the levels of light experienced within the gardens.
9. This is a concern given that the proposed development could be occupied by couples and, in consequence, there is a possibility that the garden could be used on a reasonably intensive basis. In result, the lack of light and outlook for the garden would give rise to adverse effects owing to these being the only spaces within the development where outdoors recreation could take place.
10. My attention has been drawn to draft guidance regarding proposed garden sizes. Whilst the evidence before me is indicative that the proposed development would meet the minimum specified sizes, I have been referred to adopted Development Plan policies that seek to ensure that future occupiers experience appropriate living conditions. For the foregoing reasons, I do not believe that this objective would be met.
11. Although there are some areas of public open space within the vicinity, this would not serve as an appropriate alternative for all types of recreation owing to the lack of convenience of location and lack of privacy. In consequence, the lack of appropriate light and outlook for users of the garden areas would prevent occupiers of the development from experiencing appropriate living conditions.
12. The appeal site is currently in commercial use. Owing to the varied character of the surrounding area's land uses, I have no reason to believe that, in this location, residential accommodation and commercial activities cannot exist in proximity to one another. Therefore, the existing land use does not overcome my previous concerns.

13. I therefore conclude that the development would not provide appropriate living conditions. The development, in this regard, would conflict with Policies SADM3 and SADM30 of the Site Allocations and Development Management Policies Plan (2016) (the Policies Plan) and Policy CS22 of the Hertsmere Core Strategy (2013) (the Core Strategy). Amongst other matters, these seek to ensure that new developments be of a high-quality design; that developments provide a good standard of accommodation; and have limited impacts on the amenities of occupiers of the site.

Living conditions of the occupiers of Reliant House

14. The appeal site is near to Reliant House. This has been converted to flats and features a number of windows on the ground floor close to the appeal site and the location of the proposed boundary treatment.
15. The development plan at Policies SADM3 and SADM30 of the Policies Plan and Policy CS22 of the Core Strategy, state that developments should not have an adverse effect upon the living conditions of the occupiers of neighbouring properties, in terms of outlook, respect its surroundings and consider matters arising from redevelopment.
16. Owing to the design and layout of Reliant House, the proximity of the proposed boundary treatments would lead to a reduction in the level of outlook experienced from some of the windows of the existing building. In consequence, the requirements of the aforementioned policies would be breached.
17. However, the evidence before me is indicative that a fence could be erected near to the windows of Reliant House under the provisions of the permitted development regulations. This means that such a fence, or other form of enclosure, could be installed at the site without requiring an application for planning permission. In consequence, this 'fall-back' position must be given weight in my assessments.
18. The appeal site is in separate ownership to Reliant House and the area of hardstanding does not currently feature any permanent physical delineation between the separately owned areas. In result, there appears to be a realistic likelihood that a future boundary treatment could be installed. This would give rise to the same effects as the appeal proposal in this regard.
19. Therefore, whilst I have had regard to the requirements of the Development Plan, I must also have regard to the National Planning Policy Framework (the Framework). Amongst other matters, this states that planning applications should be determined in conformity with the Development Plan, unless material considerations indicate otherwise.
20. It appears that some fencing has previously been installed in the vicinity of the site, however, the evidence before me indicates that has not benefited from planning permission. In consequence, this matter does not have a significant effect on my previous observations.
21. In this instance, the presence of a realistic 'fall-back' position, that would give rise to comparable effects to the appeal proposal and could be implemented without requiring an application for planning permission is such a material consideration.

22. I therefore conclude that the proposed development is in conformity with the Framework in respect of the effect of the development upon the living conditions of the occupiers of neighbouring properties. Amongst other matters, this seeks to ensure that developments are assessed against the Development Plan, unless material considerations indicate otherwise.

Other Matters

23. I understand that the appeal site is an appropriate location for a residential development and that the internal space of the proposed development would be of an appropriate size. In addition, the development would not have an adverse effect upon matters including noise, flood risk and contamination and the highway system. Whilst these are matters of note, they are only some of all the points that must be assessed. Therefore, they do not overcome my findings in respect of the first main issue.
24. The appellant, in submitting the planning application, was attempting to overcome a previous refusal of planning permission. However, this does not outweigh my previous conclusions.

Conclusion

25. The proposal would not secure appropriate living conditions for the future occupiers of the development. This outweighs my findings in respect of the second main issue. The scheme would therefore conflict with the development plan taken as a whole. There are no material considerations, including the National Planning Policy Framework, that indicate the decision should be made other than in accordance with the development plan. Therefore, for the preceding reasons, I conclude that the appeal should be dismissed.

Benjamin Clarke

INSPECTOR