



Appeal Decision

Site visit made on 21 February 2023

by A Price BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2023

Appeal Ref: APP/H1515/W/22/3292179

Potential House, 149-157 Kings Road, Brentwood CM14 4EG

- 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 O Grinbaum of Potential House LLP against the decision of Brentwood Borough Council.
 - The application Ref 21/01680/FUL, dated 21 October 2021, was refused by notice dated 16 December 2021.
 - The development proposed is described on the application form as '2 new floors of accommodation providing 8 flats.'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Notwithstanding the description of development set out above, which is taken from the application form, it is clear from the plans and accompanying details that the proposed development comprises the extension of the existing third floor and addition of a new fourth floor to create 8 flats, together with associated works. The Council, and appellant's appeal form, dealt with the proposal on this basis and so shall I.
3. I note correspondence from the appellant setting out that they were minded to submit an application for costs. However, no such application has been received. I consider this matter no further.

Main Issues

4. The main issues are:
 - the effect of the proposed development on the character and appearance of the area;
 - whether the proposed development would provide adequate living conditions for future occupants, with particular regard to daylight, outlook and privacy;
 - the effect of the proposed development on the living conditions of the occupants of neighbouring properties, with particular regard to privacy; and
 - whether adequate provision of cycle and refuse storage would be provided.

Reasons

Character and appearance

5. The appeal site comprises a part three, part four storey building located to the west side of Kings Road, at its junction with Fairfield Road. Commercial uses exist at ground floor level with residential accommodation above. The area surrounding the site comprises a mixture of residential and commercial properties. Many of those properties have been extended or altered over time.
6. The proposed development would include external modifications and extensions to the existing building. These proposals would change the overall appearance of the building considerably and increase its overall height. The existing brick façade, together with extensions, would be treated with render and areas of metal cladding.
7. Whilst there is a reasonably high use of brick in this part of King's Road, this varies in colour and treatment, and the use of render is prevalent. Moreover, the adjoining Essex House features metal cladding. As such, the use of metal cladding, render and perforated screens at the appeal site would not appear incongruous, suiting the site's context.
8. There would be no change in footprint and the increase in height would respect the prevailing building heights in this part of Kings Road, whilst remaining distinctive amongst individual buildings along the street.
9. Accordingly, the proposed development has been designed with sensitivity to prevailing building forms and detailing which would assimilate to an acceptable standard with the wider, varied street scene. It would not appear unsympathetic or disproportionate in this highly varied setting, effectively having a neutral impact on the street scene.
10. For the above reasons, the proposed development would have an acceptable effect on the character and appearance of the area, in accordance with the relevant provisions of Policies BE14, PC04, PC05, PC06, PC08 and BE09 of Brentwood Local Plan (LP, 2022). These policies, when taken as a whole, seek to encourage high quality design in development. This is in a similar vein to the objectives of paragraphs 130 and 134 of the National Planning Policy Framework (the Framework), where development proposals should be sympathetic to local character, and to the design objectives of the Town Centre Design Guide (2019) and National Design Guide (2021).

Living conditions – future occupants

11. The majority of windows serving proposed Flats 2 and 6 are west-facing, with a limited separation distance between that elevation and neighbouring Finley Court. A further window exists in the north facing elevation of both flats. The proximity of Finley Court, which is four storeys in height, is such that daylight to the proposed units would likely to be compromised.
12. A daylight assessment has been submitted in support of the proposed development. However, this assesses only the impact of the proposed development on the occupiers of neighbouring Essex House. No assessment of the daylight for the proposed units is provided, the appellant contending that there is no reasonable need for such an assessment.

13. In the absence of a daylight assessment to demonstrate that daylight levels would be satisfactory for future occupiers, based on the condition of the site as it exists today, I am not persuaded that the living conditions for those future occupants would be acceptable. That neighbouring Finley Court was built following the conversion of the appeal building to residential, and that existing units on lower floors may have lower levels of light than those proposed does not change my position in that respect.
14. In respect of outlook, the bedroom windows serving proposed Flats 3 and 7 are north facing. It is proposed to install a perforated metal fixture over these windows. From the details before me, and irrespective of the use of the rooms as bedrooms, the level of light they would receive or matters of privacy, such a feature would harmfully obstruct outlook from these rooms. That windows could be opened and details in respect of ventilation could be conditioned, does not overcome this issue. Consequently, occupiers would likely experience an unacceptable and oppressive sense of enclosure.
15. The majority of windows serving the existing dwellings at Finley Court face in a northern direction. However, three windows serving three separate flats are positioned within the building's east elevation, towards the appeal site. Whilst the proposed development would introduce two further floors with habitable windows in its west elevation, the Finley Court windows onto which they would face are small. Moreover, an existing level of mutual overlooking already takes place here, which is not unusual for an urban setting. As such, there would be no unacceptable loss of privacy as a result of the layout of proposed development.
16. That the proposed units would meet the government's internal space standards and that the scheme has been amended since a previously refused planning application is noted. However, these matters do not overcome the harm identified in respect of living conditions.
17. Overall, I conclude that the proposed development would fail to provide a satisfactory standard of living accommodation for future occupiers, with particular regard to daylight and outlook. This would be contrary to the relevant provisions of LP Policy BE14 which, in part, seek that developments provide a good standard of accommodation. This is in a similar vein to paragraph 130 of the Framework in respect of creating places with a high standard of amenity for future users.

Living conditions – neighbouring properties

18. As explained above, some existing windows in Finley Court face in an easterly direction towards the appeal site. The proposed development would introduce two additional storeys featuring west-facing habitable windows. This would allow views towards, and over, Finley Court. However, the existing arrangement of the two buildings already allows for some mutual overlooking. Such an arrangement is common in urban locations. Ultimately, the additional windows within the proposed development would not result in any unacceptable loss of privacy.
19. For the above reasons, the proposed development would have an acceptable effect on the living conditions of the occupiers of neighbouring properties, in accordance with the relevant provisions of LP Policy BE14. This policy, in part, seeks to ensure a satisfactory standard of accommodation for the occupiers of

neighbouring properties. This is in a similar vein to paragraph 130 of the Framework in respect of creating places with a high standard of amenity for existing users.

Cycle and refuse storage

20. In respect of cycle storage, each dwelling would be provided with a private, internal storage area. The submitted plans are annotated, illustrating that each storage area would feature wall/ceiling mounted cycle storage brackets.
21. The supporting text to LP Policy BE09 sets out that when providing for cycle parking, those areas should be secure and covered, allowing for easy access for occupiers and their visitors. Step-free cycle parking and spaces for non-standard cycles are encouraged. The National Design Guide sets out that cycle parking may be accommodated in a variety of ways, in terms of location, allocation and design.
22. Whilst the proposed cycle storage would be provided within individual dwellings with no lift access or other arrangements provided to assist in the manoeuvring of bicycles to upper floors, I acknowledge that the building would be extended and not redeveloped. I therefore accept the limitations in providing communal space at ground floor level, or similar. Moreover, the Council's highways officers confirm their acceptance of the proposed cycle parking within each dwelling. Accordingly, I find that the proposed cycle parking arrangements are reasonable in this case.
23. In respect of refuse storage, although some details for arrangements have been provided, there is no substantive evidence before me to demonstrate that adequate storage for the number of flats proposed could be accommodated. The location is very constrained and the proposals rely on the use of land outside of the appeal site for the storage and collection of refuse. Based on the information before me, and in the absence of a legal agreement to secure such an arrangement, I am not satisfied that this matter has been adequately dealt with. Accordingly, the proposed development would fail to provide satisfactory refuse storage. Any unauthorised arrangements would be a matter between the appellant and the Council.
24. Overall, I conclude that although I find the proposals for cycle storage to be acceptable, the proposed development would fail to provide adequate refuse storage arrangements, contrary to the relevant provisions of LP Policy BE14 which in part seeks that proposals provide for the functional needs for refuse points.

Other Matters

25. I acknowledge the sustainable location of the development, that it would contribute towards housing supply in the borough and that the principle of the use of upper floors for residential use has been established. I also accept that the lack of private amenity space is not objected to. However, those matters are not in dispute between the Council and appellant and I have no reason to come to a different conclusion. Nevertheless, these matters do not outweigh or overcome the harm that I have identified above.
26. I note the appellant's reference to a previous planning permission for the extension of the building, dating back to 2001. I have no information before me in respect of this permission and therefore am unable to draw any

comparisons. In any event, it would appear that this previous permission related to commercial floorspace rather than residential, which is now the case. Ultimately, the existence of that historic permission has not led me to an alternative conclusion on the main issues.

Conclusion

27. For the above reasons, having regard to the development plan as a whole and to all other relevant material considerations, I conclude that the appeal should be dismissed.

A Price

INSPECTOR