



Appeal Decision

Site visit made on 21 November 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th December 2023

Appeal Ref: APP/Z1510/W/23/3318715

Warwick House, 48 Collingwood Road, Witham, Essex CM8 2DZ

- 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 Daniel Pearson of DL Complete Developments Ltd against the decision of Braintree District Council.
 - The application Ref 22/01764/FUL, dated 8 July 2022, was refused by notice dated 25 November 2022.
 - The development proposed is demolition of existing building and the construction of a new building providing three residential units alongside associated landscaping, access, parking and associated development.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of existing building and the construction of a new building providing three residential units alongside associated landscaping, access, parking and associated development at Warwick House, 48 Collingwood Road, Witham, Essex CM8 2DZ in accordance with the application, Ref 22/01764/FUL dated 8 July 2022 subject to the conditions set out in the schedule at the end of this decision.

Preliminary Matter

2. I have been made aware of the planning history of the site which includes planning permission for the change of use, extension to and alteration to the outbuilding to form a dwelling, approved under application Ref 21/03365/FUL. This extant permission represents a legitimate fall-back position and a material planning consideration which I afford great weight to.

Main Issue

3. The main issue is the effect of the proposed development upon the living conditions of the occupiers of 48A Collingwood Road with regard to outlook and overlooking.

Reasons

4. The appeal site comprises a 3-storey detached building that has been subdivided into flats. A vacant outbuilding is sited to the north of the main property and benefits from planning permission for alterations and extensions. The buildings sit on a higher level than the amenity area which falls away to the boundary with No 48A and to the rear. No 48A is a two storey dwelling – its rear garden sits at a lower level and positioned along its rear boundary is a garden room.

5. I acknowledge that the proposed development would lead to an elongated building visible from the rear garden of No 48A. However, the maximum height of the building, at approximately 7m, would not be unduly tall, and the roof would slope away from the side boundary. It would also be set a reasonable distance off the boundary maintaining a largely open aspect to the garden of No 48A.
6. In my judgement the proposal would not be visually intrusive and would not result in a sense of enclosure or diminish the outlook experienced to a degree that it would be an overbearing structure.
7. Due to the orientation of the proposal any impediment of sunlight would be minimal and would not substantially reduce the amount of natural light reaching No 48A or its garden.
8. In coming to my decision, I have paid regard to the fallback position. The layout as shown would not project significantly further than the approved building, closest to the boundary with No 48A, and would be no closer and only marginally taller ensuring no unacceptable overshadowing or loss of outlook for occupiers of No 48A.
9. The officer's report contends that the proposed development would not comply with guidance contained in the Building Research Establishment report 'Site Layout Planning for Daylight and Sunlight'. However, this is not substantiated by any evidence. Furthermore, there is nothing before me to indicate that this guidance forms part of the development plan. As such, I give this aspect of the Council's argument very limited weight. In any event the appellant has subsequently produced evidence to demonstrate that the proposal would comply with this guidance, which is not challenged by the Council. I therefore afford this weight in coming to my decision.
10. The proposed development would include a rooflight facing the side boundary with No 48A. Based on the evidence before me outlook from this window would only be appreciable when standing very close to it and looking upwards limited to views of the sky. In my view the position of the window would not result in undue overlooking of the rear garden leading to unacceptable living conditions for existing occupiers.
11. The development proposes upper floor windows in the rear elevation facing the rear amenity space. I note the Council's concerns regarding overlooking of the garden and garden room at No 48A. There is an existing degree of mutual overlooking between the appeal site and nearby properties and close relationships between properties are not uncommon in urban areas. Taking these factors into account I am satisfied that the height and position of the proposed windows would not unacceptably affect the living conditions of the occupiers of this property.
12. As such, the proposed development would not unduly affect the living conditions of existing occupiers. It would accord with Policies LPP1, LPP47 and LPP52 of the Braintree District Local Plan (2022) which, amongst other things, seek to promote and secure a high standard of design and prevent unacceptable impact on the amenity of any nearby properties including privacy, overshadowing, loss of light and overbearing impact.

Conditions

13. I have considered the imposition of conditions in accordance with the National Planning Policy Framework and the Planning Practice Guidance.
14. In addition to the standard time limit condition, I have imposed a condition specifying the approved plans as this provides certainty. Conditions for details of the external materials and hard and soft landscaping have been imposed in order to ensure the satisfactory appearance of the development. Lastly a condition for details of the finished levels of the building and landscaped area has been imposed to safeguard the living conditions of neighbouring occupiers.

Conclusion

15. For the reasons set out above the appeal succeeds.

B Thandi

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Drawing Number 11449 01; Existing Site Plan Drawing Number 11449 02; Proposed Ground Floor Plan Drawing Number 11449 03; Proposed First Floor Drawing Number 11449 04A; Proposed Roof Plan Drawing Number 11449 05A; Proposed Front Elevation Drawing Number 11449 06A; Proposed Side Elevation Drawing Number 11449 07A; Proposed Rear Elevation Drawing Number 11449 08A; Proposed Side Elevation Drawing Number 11449 09A; Proposed Street Scene Drawing Number 11449 10A; Proposed Site Plan Drawing Number 11449 11A and Proposed Sections A-A Drawing Number 11449 12A.
- 3) No development shall take place until full details of the floor level of the proposed building and landscaped areas in relation to existing ground levels have been 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 development shall take place, above ground, until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 5) No development shall commence, above ground, until details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority. The landscaping works shall be carried out in accordance with the approved details before any part of the development is first occupied in accordance with the agreed implementation programme.