



Appeal Decision

Site visit made on 15 January 2024

by K Savage BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 March 2024

Appeal Ref: APP/P4415/W/23/3326242

Phoenix Court, 67 Blyth Road, Maltby, Rotherham S66 7LF

- 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 M Blum (Phoenix Court Property Management Limited) against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2022/1806, dated 8 December 2022, was refused by notice dated 18 May 2023.
 - The development proposed is raising of the main roof to accommodate four new 2 bedroom apartments.
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Decision

1. The appeal is allowed and planning permission is granted for raising of the main roof to accommodate four new 2 bedroom apartments at Phoenix Court, 67 Blyth Road, Maltby, Rotherham S66 7LF in accordance with the terms of the application, Ref RB2022/1806, dated 8 December 2022, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for an award of costs has been made by Mr M Blum (Phoenix Court Property Management Limited) against Rotherham Metropolitan Borough Council. This is the subject of a separate decision.

Preliminary Matter

3. A new version of the National Planning Policy Framework (the Framework) was published on 19 December 2023. The main parties have been afforded the opportunity to comment on the revised Framework and I have taken the responses received into consideration. References hereafter in the decision to the Framework are to the December 2023 version.

Main Issue

4. The main issue is the effect of the proposal on the character and appearance of the area.

Reasons

5. Phoenix Court is a large, detached Victorian building converted into apartments located on Blyth Road, a residential road containing a varied townscape with buildings of different scale and design. The sloping topography means the appeal building stands below the level of the road and the land level falls steeply to the rear, whilst dwellings on the opposite side of the road stand well above the level of the road.

6. The building comprises a broad front elevation in limestone with stone banding and vertically aligned sash windows, beneath a shallow hipped roof. Large, brick-faced extensions stand to the rear. The Victorian character of the building is noted as having architectural merit, although proposals to include it as a locally listed building in the draft Maltby Neighbourhood Plan are no longer being taken forward. Nonetheless, it forms a notable building with a simple but attractive façade standing in spacious grounds that adds positively to the character of the area.
7. The proposal seeks to add an additional storey to the building, raising its height from 9.5m to 12.8m. I am mindful that a previous proposal was dismissed at appeal in 2022¹ due to concerns over the design of the additional storey. In place of the taller, zinc roof form and unaligned window pattern of the previous scheme, the proposed extension would replicate the architecture of the existing building, using matching facing materials and detailing. Details of the external materials could be secured by condition to ensure a suitable match to the existing building. The fenestration pattern would be continued and the hipped roof form would be recreated. In these respects, the proposal would retain the architectural quality of the building. The shallow form of the roof would also avoid the bulky form of the previous scheme. The broad façade of the building means that even with the additional storey added, it would retain a proportionate appearance, not overly tall or top heavy in massing but with balance to the horizontal and vertical elements.
8. In the wider context of the street scene, the varied building heights and ground levels means the additional height and massing of the building would not appear excessive or disruptive of an otherwise consistent pattern of development. The building would stand above the height of No 69 to the south-east but this difference in height would not appear discordant in views along Blyth Road in either direction, due to the separation distance between the buildings, but also the individual presence the appeal dwelling has due to its recessed position within a spacious plot and the filtering effect of the mature trees around the site.
9. Similarly, on the opposite side, Nos 67A and No 65 are already smaller in scale and the spatial relationship between these dwellings and the appeal building would not significantly change as a result of the proposal. At the rear, part of the existing extension would also be raised, but to a lower height than the front section, maintaining a stepped arrangement to the roof and a subordinate status to the rear parts of the building.
10. In reaching a view, I have noted concerns raised by residents living opposite the appeal site that the additional storey would block views over the Maltby Craggs to the west. It is a well-established principle that the loss of a specific view is not a material planning consideration. In terms of the general character of the area, I accept that the additional height may project into views from a small number of dwellings directly opposite the site, but as the extension would not widen the building, there would remain views through the gap between Phoenix Court and No 67 and the view over the top of Nos 67A and 65 on the other side would not be altered. From my observations on site, I am satisfied that the proposal would not lead to a harmful loss of visual connectivity with the surrounding countryside.

¹ Appeal Ref: APP/P4415/W/22/3293673, dismissed 3 August 2022

11. For these reasons, I conclude that the proposal would preserve the character and appearance of the area, in accordance with Policy CS28 of the Rotherham Local Plan Core Strategy (September 2014) and Policy SP55 of the Rotherham Local Plan Sites and Policies document (June 2018), which together require proposals to be responsive to their context and be visually attractive as a result of good architecture and appropriate landscaping; to take all opportunities to improve the character and quality of an area and the way it functions; and to have regard to factors including setting, scale, location, sensitivity and the grain of surrounding development. The proposal would further accord with the aims of the Framework to secure high quality design.

Other Matters

12. Concern has been raised by interested parties with respect to the effect on their living conditions. The appeal scheme is lower in overall height than the previous proposal, which the Inspector determined would not result in harmful overbearing or overshadowing effects for the nearest neighbour at No 67A. As there is already an enclosing effect on the front windows of No 67A from the side wall of Phoenix Court, the additional massing would effect a relatively small change in outlook and light received by these windows. Similarly, the extensions over the rear part of the building would be closest to a kitchen/diner window which is noted as a large, open plan room served by other windows and the proposal would not affect the principal outlook and light provided by the large rear window.
13. The proposal would introduce new windows to both side elevations and smaller, rear facing windows set back into the stepped roofscape. Each of these elevations already has windows, but the position and orientation of the building within its site means that the side elevations do not directly face the neighbouring dwellings to either side. Therefore, views from the proposed windows would be at oblique angles and similar to the views possible from the existing windows to lower floors. Given the existing degree of mutual overlooking which exists, the proposal would not materially worsen the situation for neighbouring residents.
14. Much concern has been raised by interested parties with respect to parking both within the appeal site and the potential for the proposal to add to existing parking pressure and traffic on Blyth Road. A net increase of three spaces is proposed, for a total of 16 on the site, excluding the spaces for No 67A. The local highway authority has not raised concern at the level of parking to be provided, nor the effect of the proposal on traffic and parking levels on Blyth Road, which is not subject to parking restrictions uphill of the appeal site. Given the scale of the proposal, and the provision of additional parking on site, any further parking demand on Blyth Road, if it were to occur, would be limited. At my visit, although only a snapshot, I did not observe the road to be subject to excessive parking levels or heavy traffic flow. In the absence of substantive evidence to the contrary, I am satisfied that the proposal would not lead to parking congestion or pose a risk to highway safety.

Conditions

15. I have had regard to the list of suggested conditions provided by the Council and to the parties' responses to my clarifying questions. Where necessary, I have amended the wording to ensure they meet the relevant test for conditions

set out in the Framework. The appellant has also confirmed their agreement to conditions which would be pre-commencement.

16. In addition to the statutory time limit for implementation, a condition setting out the approved plans is necessary to provide certainty.
17. Details of tree protection measures are required in order to protect trees of amenity value and safeguard the character and appearance of the area. This is a pre-commencement condition as it relates specifically to impacts arising from the outset of the construction phase and would be ineffective or lead to harm or loss were they required to be addressed at a later stage.
18. Details of external facing materials, including a sample of the stone to be used on the facades, are required to secure a satisfactory appearance. A condition requiring the parking spaces to be laid out in accordance with the approved plans is also necessary in the interests of highway and pedestrian safety.
19. Details of electric vehicle charging facilities are sought by the Council. However, since June 2022, the requirement to provide electric vehicle charging points has become part of the Building Regulations. The Council refers to possible exemptions under the Building Regulations that could result in charging points not being installed, but I have not been referred to any development plan policy which justifies a more stringent approach compared to the Building Regulations. Therefore, I find no basis for imposing the condition, which would duplicate the provisions of other legislation and fail the test of necessity.

Conclusion

20. For the reasons set out, I conclude that the proposal accords with the development plan, taken as a whole. Material considerations in this case, including the Framework, do not indicate that permission should nevertheless be withheld. Therefore, the appeal should be allowed.

K Savage

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:
 - Amended Site Plan 22.2992.8F
 - Proposed Elevations 22.2992.2C
 - Proposed Roof Plan 22.2992.6
 - Proposed Sections and 3rd Floor Plan 22.2992.7A
 - Proposed First Floor Plan 22.2992.3B
 - Proposed Second Floor 22.2992.4C
- 3) No operations (including initial site clearance) shall commence on site in connection with development hereby approved until a suitable scheme (Arboricultural Method Statement) for the protection of existing trees has been submitted and its installation on site has been approved in writing by the Local Planning Authority.

All protection measures must fully detail each phase of the development process taking into account demolition/site clearance works, all construction works and hard and soft landscaping works. Details shall include the following:

- Full survey of all trees on site and those within influencing distance on adjacent sites in accordance with BS5837*, with tree works proposals. All trees must be plotted on a scaled site plan**, clearly and accurately depicting trunk locations, root protection areas and canopy spreads.
- A plan** detailing all trees and hedgerows planned for retention and removal.
- A schedule of tree works for all the retained trees and hedges specifying pruning and other remedial or preventative work, whether for physiological, hazard abatement, aesthetic or operational reasons. All tree works shall be carried out in accordance with BS 3998.
- Soil assessments/survey
- Timing and phasing of works
- Site specific demolition and hard surface removal specifications
- Site specific construction specifications (e.g. in connection with foundations, bridging, water features, surfacing)
- Access arrangements and car parking
- Level changes
- Landscaping proposals
- A tree protection plan** in accordance with BS5837* detailing all methods of protection, including but not restricted to: locations of construction exclusion zones, root protection areas, fit for purpose

fencing and ground protection, service routes, works access space, material/machinery/waste storage and permanent & temporary hard surfaces.

- Soil remediation plans, where unauthorised access has damaged root protection areas in the construction exclusion zones.
- Details of the arboricultural supervision schedule.

All tree protection methods detailed in the approved Arboricultural Method Statement shall not be moved or removed, temporarily or otherwise, until all works including external works have been completed and all equipment, machinery and surplus materials have been removed from the site, unless the prior approval of the Local Planning Authority has first been sought and obtained.

*Using the most recent revision the of the Standard

** Plans must be of a minimum scale of 1:200 (unless otherwise agreed by the Local Planning Authority)

- 4) No development shall take place (except for demolition) until details of the materials to be used in the construction of the external surfaces of the development hereby permitted have been submitted or samples of the materials have been left on site, and the details/samples have been approved in writing by the Local Planning Authority. This shall include a sample panel of the natural stone cladding to the elevations of the building. The development shall thereafter be carried out in accordance with the approved details/samples.
- 5) The development hereby approved shall not be brought into use until the car parking area shown has been provided and marked out in accordance with details shown on the approved plan 22.2992.8F. The spaces shall thereafter be maintained for car parking at all times.
