



# Appeal Decision

Site visit made on 17 September 2024

**by K Townend BSc MA MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 22 October 2024**

**Appeal Ref: APP/U4610/W/24/3342132**

**Site between 52 Moor Street and 58 Moor Street, Coventry CV5 6ER**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Mr J Jaspal on behalf of Thames Cribs Ltd against the decision of Coventry City Council.
- The application Ref is PL/2023/0002444/FUL.
- The development proposed is new residential development of four flats.

1. The appeal is allowed, and planning permission is granted for new residential development of four flats at site between 52 Moor Street and 58 Moor Street, Coventry CV5 6ER in accordance with the terms of the application, Ref PL/2023/0002444/FUL, and the plans submitted with it, subject to the conditions in the attached schedule.

## Preliminary Matters

2. The description of development in the banner heading above is taken from the application form, however I have removed the reference to the derelict parking site as this is not part of the proposed development and is a subjective matter. The site address is taken from the appeal form as this better describes the site address than the description given on the application form and is less repetitive than the address given in the Council's decision.
3. From the evidence before me there is no dispute between the main parties as to the acceptability of the proposed two-storey building proposed to be sited on Moor Street, directly between the existing dwellings. I have, therefore, confined my detailed considerations to the proposed three flats at the rear of the site.

## Main Issues

4. The main issues are;
  - Whether the proposed development would provide acceptable living conditions for the future occupants of the units, with regard to privacy and outlook; and
  - The effect of the proposal on the living conditions of neighbouring occupiers, with regard to privacy, sunlight, and daylight.

## Reasons

### *Living conditions of future occupiers*

5. The appeal site is a parcel of land between the houses along Moor Street and Poplar Road. At the time of my visit the site contained a number of garages,

these were not in use and were in a state of disrepair. The site also includes part of the existing garden area associated with 58 Moor Street (No. 58). The area around the site is residential, predominately made up of tight-knit terraced housing. The site lies within the Earlsdon Conservation Area and near to the centre of Earlsdon.

6. Policy DE1 of the Coventry City Council Local Plan, adopted December 2017 (the LP) does not specifically refer to seeking to maintain or protect the living conditions of future, or existing, residents. However, the policy does require development to respond to its physical context and respect its surroundings. In that regard, Policy DE1 of the LP is the most relevant policy to the consideration of this main issue.
7. The Coventry City Council Design Guidance for New Residential Developments Supplementary Planning Document (the Design SPD) provides additional advice to support Policy DE1 of the LP. Section 8 of the Design SPD sets out that residential amenity is an important design matter and that new residential developments should provide future occupiers with high quality amenities and not undermine the residential amenities of occupiers of neighbouring properties.
8. The SPD advises that a minimum distance of 20 metres is the Council's generally accepted guideline for there to be no material loss of privacy between the rear of two storey buildings directly facing each other. However, the guidance also acknowledges that where the development is a compact context, or where the development is single storey, it may not be appropriate to provide conventional separation distances.
9. The proposed three flats at the rear of the site would be single storey with mono-pitched roofs sloping up from the rear of the site. The roofs would include rooflights to provide light to the proposed units. Even if I were to take the Council's measurements, that these rooflights would be approximately 8.4 metres from the rear elevations of the existing two storey houses on Poplar Road, the pitch of the proposed roofs is low. Consequently, although the occupiers of the properties on Poplar Road would be able to see the rooflights they would be at such an angle that overlooking from the existing properties into the proposed units would be limited. The risk of harm to the living conditions of the future occupants of the proposed properties from being overlooked by the existing two-storey houses on Poplar Road would be, therefore, be limited.
10. The appellant has offered to obscure glaze the rooflights so as to further restrict any overlooking. Although the Design SPD does not generally support obscure glazing where this would be the only window to the room, in this case, the flats all have other windows in the front elevations which would not be obscure glazed. Nevertheless, it is not necessary to obscure glaze the rooflights due to the roof slope restricting views.
11. I saw at the time of my visit that the two properties on Moor Street, Nos. 50 and 52, back onto the appeal site. However, neither of these properties contain any rear windows in the rear-most sections. The windows in the rear elevations are set between the outriggers of the two properties and, consequently, would be more than the recommended minimum of 20 metres from the appeal proposal so as not to cause unacceptable loss of privacy.

12. No. 58 has a window in the gable end of the rear elevation. However, although the separation distance between No. 58 and the appeal proposal would not achieve the 20 metre recommended minimum, the proposed development would be off-set at an angle from the rear of No. 58. Even if the angle would not exceed the 30 degrees recommended in the Design SPD the views would be at an angle and would also be between two-storey to single storey properties rather than two facing two-storey properties. Overall, there would not be any windows facing directly towards the existing window in the rear of No. 58 and, therefore, not unacceptable loss of privacy from within the proposed units.
13. In that regard the appeal before me is materially different to the previously refused scheme on the same site which contained an additional flat positioned directly to the rear of No. 58.
14. The garden area of the proposed flat closest to No. 58 would be overlooked by this window. However, this would be expected within the tight-knit residential area where rear windows often overlook the neighbour's gardens. Moreover, the view from the rear of No. 58 would also be angled views rather than the existing window directly facing down into the garden of the appeal proposal.
15. Overall, the separation distances between the main windows in the front and side elevations of the proposed flats and the houses on Moor Street are such that the living conditions of the future occupants, in terms of privacy, would not be adversely affected. Moreover, the proposed fences around the garden areas would enclose both the garden areas and the front windows to the proposed development.
16. The size of the site constrains the size of the gardens which would be provided and would result in the proposal only providing windows facing towards Moor Street and one side of the site. However, I have no compelling evidence that the depth of the garden or the height of the fences would not allow sufficient daylight and sunlight to the proposed flats. Furthermore, the distances between the proposed development and the existing houses on Moor Street is not so close so as to restrict the outlook for the future occupants of the proposed development.
17. For the above reasons, I find that the proposal would provide acceptable living conditions for the future occupants of the units, with particular regard to privacy and outlook. Consequently, I find no conflict with the requirements of Policy DE1 of the LP which, amongst other matters, requires all development to respect and enhance their surroundings and respond to the physical context of the site.
18. For the same reasons, although the proposal would not comply with the minimum separation distances set out in the Design SPD, the proposal would meet the aims of the Design SPD in providing high quality and inclusive design. Moreover, the Design SPD provides for flexibility when considering separation distances. The proposal would, nevertheless, comply with Principle 23 of the Design SPD in that it would provide new residential development with a reasonable degree of privacy to habitable rooms. It would also comply with Principles 24 and 25 which, taken together, seek to ensure that all habitable rooms maintain at least one main window with an adequate outlook and provide good quality daylight and sun access to habitable rooms and external spaces.

19. The proposal would also comply with the aims of the National Planning Policy Framework (the Framework) and specifically Paragraph 135 which, amongst other matters, seeks to ensure that developments provide a high standard of amenity for future users.

*Living conditions of neighbouring occupiers*

20. The rear elevation of the proposed flats, at the rear of the site, albeit taller than the existing flat-roofed garages, would not be substantially taller than the existing boundary fence. The plans submitted also indicate that there is an alleyway between the appeal site and the gardens of the properties on Poplar Road and I have no substantive evidence that this alleyway would not remain.
21. Although the properties on Poplar Road have small gardens for the size of the dwellings, the height of the proposed development and the intervening alleyway would ensure that there is no greater risk of overshadowing the garden areas to the neighbouring properties. The main effect of the slight increase in height above both the existing built form and the fence would be on light in the alleyway. The development would not cause unacceptable loss of daylight or sunlight to the gardens. Furthermore, the separation distances would ensure that the proposed development would not cause any loss of sunlight or daylight directly to the habitable rooms of the neighbouring properties.
22. As with the living conditions of the future occupants of the proposed development the low pitch slope of the roof would ensure that there would not be unacceptable levels of overlooking, or significant adverse effects on privacy, from the proposed development into the habitable rooms of the neighbouring properties or their gardens.
23. For the above reasons, I find that the proposal would not result in unacceptable harm to the living conditions of neighbouring occupiers, with particular regard to privacy, sunlight, and daylight. I, therefore, find no conflict with the requirements of Policy DE1 of the LP.
24. For the same reasons, the proposal would comply with the guidance set out in the Design SPD and specifically Principle 23 which seeks to resist developments which have a significant adverse effect on the privacy of neighbouring properties. The development would also comply with Principle 25 of the Design SPD which, amongst other matters, seeks to ensure that developments do not result in occupants of neighbouring dwellings suffering from a significant loss of daylight or sun access.
25. There would also be no conflict with the guidance set out in paragraph 135 of the Framework which, amongst other matters, seeks to ensure a high standard of amenity for existing users.

**Other Matters**

26. The Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) ('the Act') provides, at section 72(1), that with respect to any buildings or other land, in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character, or appearance of that area.

27. The Earlsdon Conservation Area Appraisal (the CAA) details the historic development of the area and the characteristics which are of special architectural or historic interest. Insofar as it is relevant to the appeal, I consider that the significance of the conservation area is mainly derived from its historic 'garden village' layout and the grid formation of streets of housing. The subtle varieties in design but uniformity in materials, the high level of original detailing and other features also contribute positively to the character and appearance of the conservation area as a whole.
28. The appeal site currently contains single storey garages which, even if not in a state of disrepair, would not contribute positively to the character or appearance of the Conservation Area. The proposed development would be sympathetic in providing modern development of a scale which is subservient to the original buildings within Moor Street and Poplar Road. The proposed unit on Moor Street would replicate the character of the existing terraced housing. The proposed materials would also be appropriate in the Conservation Area.
29. For the above reasons, I find that the proposal would preserve the character and appearance of the Earlsdon Conservation Area. I note that the Council raised no objection in this regard either. The proposal would, therefore, comply with the requirements of Policies HE1 and HE2 of the LP which, taken together, seek to ensure that all new residential development is of a high quality, enhances the built environment, and preserves or enhances the Conservation Area.
30. Interested parties, in addition to the above issues, have raised concerns regarding the loss of the community use and the lack of need for additional housing in the area. However, from the evidence before me the garages and garden to No. 58 are all within private ownership. It is not a community space. Although the loss of the garage facilities, and the associated provision of parking and storage space, is unfortunate it is for the site owner to determine whether to retain the garages and previous use. Furthermore, the Council has not raised any objection with regard to parking or the effect on parking capacity from the loss of the garages.
31. The Council has also confirmed that they do not currently have a five year supply of deliverable housing sites and consequently paragraph 11(d) of the Framework should be applied. Consequently, even if there are houses for sale in the area, there is an identified need for additional housing in Coventry that is not being met.
32. The proposal would comply with the aims of the Framework in boosting the supply of housing provision and the delivery of four additional dwellings in a sustainable location is a social benefit arising from this proposal, as well as positively contributing to the Council's housing land supply. Economic benefits would also likely arise from employment during the conversion works, and occupation of the new units through additional expenditure in the area. Environmental benefits would arise from making effective use of the land.
33. However, for the reasons set out above, I have not found any substantial harm from the proposed development, and I find that the proposal would comply with the policies set out in the development plan. Therefore, in the context of paragraph 11 of the Framework, the proposal complies with the development plan and should, therefore, be approved. Nevertheless, the adverse impacts of the development would not significantly and demonstrably

outweigh the benefits I have identified when assessed against the policies in the Framework taken as a whole.

### **Conditions**

34. The Council has provided a list of conditions that it suggests would be appropriate and the appellant has commented on this. I have considered these in light of the Framework and the Planning Practice Guidance, and I have undertaken some minor editing and rationalisation in the interests of precision and clarity.
35. In addition to the standard condition which limits the lifespan of the planning permission I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. In order to ensure a satisfactory appearance, I have included a condition requiring the submission of samples of the materials to be used for the external surfaces of the dwellings and details of the glazing, brick bond, cladding and rainwater goods to be submitted for approval by the Council.
36. Furthermore, given the constrained nature of the site and that it is located within the Earlsdon Conservation Area, it is necessary to include a condition requiring the details of hard and soft landscaping works. However, as I have no compelling evidence that the gardens would not remain available for use at all times to require this as part of a condition would not be necessary.
37. To ensure that the development would not increase flood risk elsewhere and deals with any surface water, and due to the lack of detail on the submitted drainage plans, I have included a condition to require the submission of drainage details.
38. Moreover, given the constrained nature of the site and the proximity of existing residential properties I agree that a construction management plan condition is required, albeit that the proposal is only a small-scale development.
39. In the interests of highway and pedestrian safety I have included conditions to require the access and parking areas to be provided prior to occupation of any of the approved dwellings. I have also included a condition to require one electric vehicle charging point per dwelling, to encourage sustainability and the use of electric vehicles.
40. I have also included a condition to require the cycle and waste storage arrangements to be provided as shown on the approved plans, and for this space to be maintained for these uses to ensure that these facilities are available for the future occupants of the development. However, I do not find it necessary to require details of the cycle parking facilities to be submitted as these are clearly shown on the plans.
41. From the evidence before me the site has the potential to be at risk from contaminants and archaeology. It is, therefore, wholly appropriate to include conditions to require the submission of additional information in regard to both of these matters. However, I have no compelling evidence that the site has been appropriately surveyed for contamination, as recommended by the Council Environmental Protection Officer and I, therefore, find it is necessary to impose a condition requiring details of contamination survey work as well as the unexpected contamination condition.

42. Policy DS3 of the LP seeks to secure the use of low carbon, renewable and energy efficient technologies and adapt to the impacts of climate change. However, I have no evidence that there is a policy requirement to secure particular NOx emission rates for new gas boilers. I, therefore, find it is not reasonable to impose a condition to require this.

**Conclusion**

43. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be allowed.

*K Townsend*

INSPECTOR

## SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 1616-0200-03, 1616-0510-01, 1616-0511-01, 1616-0512-01 and 1616-0514-01.
- 3) Notwithstanding any description of materials in the application, no development above ground floor slab level shall commence until samples 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. The details shall include information on the brick and mortar materials, the brick bond and the cladding materials, colour finish, profile, fixing systems and joint details. The development shall thereafter be carried out in accordance with the approved details.
- 4) No development above ground floor slab level shall commence until details of the glazing and door specifications, materials, and colour finish; and the materials and colour finish of the rainwater goods have been submitted to and approved in writing by the local planning authority. The development shall thereafter be carried out in accordance with the approved details.
- 5) No development shall take place above slab level until a detailed surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority;
  - a) The submitted details shall:
    - provide details of the proposed surface water drainage system, including any below ground attenuation and water control measures such as permeable paving, to manage the offsite discharge to 4.7 l/s;
    - include a timetable for its implementation; and,
    - provide a management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.
  - b) The development shall be carried out in accordance with the approved details. The sustainable drainage system shall be managed and maintained thereafter in accordance with the approved management and maintenance plan.
- 6) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
  - the parking of vehicles of site operatives and visitors;
  - loading and unloading of plant and materials;
  - storage of plant and materials;

- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- wheel washing facilities;
- measures to control the emission of dust and dirt during construction;
- measures to control the presence of asbestos;
- measures to minimise noise disturbance to neighbouring properties during demolition and construction;
- measures to control flooding and surface water drainage during demolition and construction;
- identification of any underground drainage or other buried services;
- Details of any piling works and details of how any associated vibration will be monitored and controlled;
- a scheme for recycling/disposing of waste resulting from demolition and construction works; and
- delivery, demolition, and construction working hours.

The approved Construction Method Statement shall be adhered to throughout the construction period for the development.

- 7) No development shall take place until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency, Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), has been submitted to and approved in writing by the local planning authority. If any contamination is found, no development shall take place until:
  - i) a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the development hereby permitted has been submitted to and approved in writing by the local planning authority;
  - ii) the site has been remediated in accordance with the approved measures and timescale; and
  - iii) a verification report has been submitted to and approved in writing by the local planning authority.
- 8) If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended until:
  - i) additional measures for the remediation of the site have been carried out in accordance with details that shall first have been submitted to and approved in writing by the local planning authority; and
  - ii) a verification report for all the remediation works has been submitted to and approved in writing by the local planning authority.

- 9) No development (including demolition) shall take place until:
  - i) An archaeological field evaluation has been carried out in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority; and
  - ii) Safeguarding measures to ensure the preservation in situ of important archaeological remains and/or further archaeological investigation and recording identified in the archaeological field evaluation have been undertaken in accordance with a specification and timetable that shall first have been submitted to and approved in writing by the local planning authority.
- 10) No development (including demolition) shall take place other than in accordance with the Written Scheme of Investigation approved under condition 9.
- 11) Prior to the first occupation of any of the dwellings hereby approved, a scheme of hard and soft landscaping shall have been submitted to and approved in writing by the local planning authority. The scheme shall include details of all hard surfacing materials, boundary treatments, and planting plans and schedules. The hard landscaping works shall be completed in strict accordance with the approved details within three months of the first occupation of the development hereby permitted; and all planting shall be carried out in accordance with the approved details within the first planting and seeding seasons following the first occupation. Any tree(s) or shrub(s) which, within a period of five years from the completion of the development, dies, is removed or becomes; in the opinion of the Local Planning Authority; seriously damaged, defective, or diseased shall be replaced in the next planting season with another of similar size and species.
- 12) No dwelling hereby approved shall be occupied until space has been laid out within the site in accordance with the approved drawing for six cars to be parked and for vehicles to turn so that they may enter and leave the site in forward gear and that space shall thereafter be kept available at all times for those purposes.
- 13) Pedestrian visibility splays of 2m by 2m shall be provided at the entrance of the site, kept free of any obstruction exceeding 0.6m in height, and shall be retained as such thereafter.
- 14) The development shall not be occupied until electric vehicle charging points have been provided in accordance with details to be submitted to and approved in writing by the local planning authority. The electric vehicle charging points shall be installed in accordance with the approved details and shall thereafter be maintained for the lifetime of the development.
- 15) No dwelling shall be occupied until space has been laid out within the site, in accordance with the approved drawings, for bicycles and refuse collection receptacles to be stored and that space shall thereafter be kept available for the storage of bicycles and refuse for the lifetime of the development.

\*\*\* END OF CONDITIONS \*\*\*