



Appeal Decision

Site visit made on 25 October 2024

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 November 2024

Appeal Ref: APP/H1515/W/24/3337230

Highmead Court, Sawyers Hall Lane, Brentwood, Essex CM15 9DB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by CM Highmead Limited against the decision of Brentwood Borough Council.
 - The application Ref is 23/01390/PHNF.
 - The development proposed is described as 'a single-storey roof extension to Highmead Court to provide six flats of which four are two bed and two are one bed homes, additional parking, cycle parking and refuse'.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for 'a single-storey roof extension to Highmead Court to provide six flats of which four are two bed and two are one bed homes, additional parking, cycle parking and refuse' at Highmead Court, Sawyers Hall Lane, Brentwood, Essex CM15 9DB in accordance with the application 23/01390/PHNF and the details submitted with it and subject to the following conditions:
 - 1) Prior to the first occupation of any new dwelling, the bin store and cycle store shall be installed and shall remain available for use at all times.
 - 2) Prior to the installation of the cycle or refuse stores, or any alterations to the parking configuration and access, details of a scheme of soft landscaping for those parts of the site shall be submitted to, and approved in writing by the local planning authority. The approved soft landscaping shall be implemented in the first available planting season following its approval.

Application for Costs

2. An application for costs has been made by SM Highmead Limited against Brentwood Borough Council. That application is the subject of a separate decision.

Procedural Matters

3. Under Article 3(1) and Schedule 2, Part 20, Class A of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended

(‘the GPDO), planning permission is granted for new dwellings on detached blocks of flats, subject to limitations and conditions.

4. The Council do not dispute that the proposal meets the criteria set out at paragraph A.1. I have had regard to the comments of third parties on this matter, which I have discussed below under Other Matters. However, in light of that assessment I am content that the proposed development would constitute permitted development, subject to the conditions set out in the GPDO.
5. The condition at paragraph A.2(1) requires that, before beginning the development, the developer must apply to the local planning authority for prior approval as to the matters listed. This includes: (e) the external appearance of the building and, (g) impact on the amenity of the existing building and neighbouring premises including overlooking, privacy and the loss of light.
6. The GPDO states that, when determining such an application for prior approval, the local planning authority must take into account any representations made to them as a result of any consultation or notice given, and have regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. While there is no requirement to have regard to the development plan, its policies can, nonetheless, be a material consideration.
7. On 30 July 2024 the Government published a consultation on proposed reforms to the Framework and other changes to the planning system. Whilst a direction of travel has been outlined within the Written Ministerial Statement, which is a material consideration, the changes to the Framework can only be given limited weight at this stage, given that no final document has been published. In reaching my decision I have therefore had regard to the Framework published in December 2023, and references to the Framework are to this version unless stated otherwise.

Main Issues

8. The main issues in this appeal are the effects on the external appearance of the building and the amenity of the existing building and neighbouring premises.

Reasons

External Appearance

9. Highmead Court is a block of flats located at the junction of Sawyers Hall Lane and Highland Avenue. While the surrounding area is predominantly residential, a number of schools and educational uses exist a short distance to the north of the site. The housing in the surrounding area varies in its scale and appearance. The area immediately surrounding the appeal site, for example, includes a terrace of flat-roofed properties to the south, houses of predominantly two storeys with traditional pitched roofs further to the west along Highland Avenue, as well as flatted developments of Argyll Court and Ravenscourt to the north which comprise accommodation set across three floors and with pitched roofs above. Taken together, the area can be described as having a mixed character and comprising a variety of building heights rising

up to three storeys. Other blocks similar in character to Highmead Court exist across the wider area and include Burgess Court to the south, which is similarly the subject of a current appeal¹.

10. Highmead Court has an appearance typical of its age, having three storeys set below an extensive flat roof and with repetitive elevations of windows set among brickwork and hanging tiles, with projecting balconies. The building is broadly L-shaped and includes a smaller element to the northern side of the larger block facing Highland Avenue. It is set within spacious and verdant grounds of grassland, mature trees and hedgerow, which separate the building from the edge of the roads.
11. Given the variation in building heights in the area, and particularly given the site's proximity to taller developments on Sawyers Hall Lane, the proposal would not dominate its surroundings or appear incongruous. The set back of the building from the street edges, and presence of planting and mature trees, would assist in softening the visual impacts of the development and reduce its prominence in views from the surrounding streets. While the existing building may have been carefully planned for its context at the time, given the particular circumstances of the proposal and the site's context today, the proposal would not cause harm to the external appearance of the building.
12. Changes are also proposed to the grounds of the building in connection with the provision of car parking, cycle and refuse storage. Some of those works are close to trees which local residents report are protected. Based on the submitted plans and findings of my site visit, the proposed bin store and a small part of some parking spaces would be positioned beneath the canopy of an attractive tree. However, while there is little evidence of the protected status of that particular tree, these features would be unlikely to cause harm to or deterioration of that tree given their nature and existing features beneath it. The proposed cycle store would be a greater distance from any tree and would not present harmful impacts to the external appearance of the building.
13. In conclusion on this main issue, the proposal would be acceptable in terms of its effects on the external appearance of the building. It would comply with the Framework where it requires development to be sympathetic to local character.

Living Conditions- Existing Building

14. The Council have raised concerns for the effects of the development on the privacy of existing occupiers, particularly at the back of the building and as a result of the new windows and balcony proposed to serve new Unit 21. Those new windows and balcony would be west facing, and the windows would give views to the south only at oblique angles. In addition, the proposal would follow the alignment of windows and balconies below, and the balcony would be of a limited size and positioned where a significant level of intervisibility between flats already exists. The new large window serving the extended stairwell would similarly be west facing, providing very limited opportunities for looking into the existing flats. In addition, any overlooking from the stairwell would be transient and occasional. The proposal would not, therefore, cause a harmful loss of privacy to existing occupants. While the proposed

¹ APP/H1515/W/24/3340222

layout of flats would be different to those below, there is not substantive evidence to suggest that resulting noise disturbance would cause significant harm to the amenities of the flats below.

Living Conditions- Neighbouring Buildings

15. The proposed new windows on the south facing elevation would face towards multiple properties on the opposite side of Highland Avenue. Highmead Court already includes windows and balconies which face towards those properties, and views are possible towards the lower levels of those properties opposite by users of the road and footpath. There is little evidence to suggest that the existing street trees are likely to be removed, however, even if they were, given the distance between the buildings, which the Council report to be approximately 27.5m, together with the existing conditions, a harmful loss of privacy would not occur as a result of the proposal.
16. The proposal may be visible from properties on Argyll Court to the north. However, given the distances involved reported by the Council, the development would not cause an unacceptable loss of privacy or a harmful reduction in natural lighting even if the tree coverage were to alter over time. In the case of the property of Meadside to the west of the site, the new west facing windows would be a significant distance from that property, and views from other proposed windows towards Meadside would be at oblique angles and provide views similar to those from the existing windows. In combination those effects would be acceptable.
17. In conclusion on this main issue, the development would be acceptable in terms of its effects on the amenity of the existing building and neighbouring premises. It would be compliant with the Framework insofar as it relates to healthy living conditions and high standards of amenity.

Other Matters

18. I have reviewed the reasons why third parties consider the proposal does not adhere to the criteria for development to be permitted under Class A, Part 20, Schedule 2 of the GPDO. The proposal would be constructed on the principal part of the building and in light of the definition of 'principal part' contained in the GPDO², I see no reason why this should exclude the rear parts of the building. The proposal would also be located entirely within the existing curtilage of the building, which would include land beyond the footprint of the building itself. As such, the proposal would adhere to the relevant criteria to be considered under this part of the GPDO.
19. The Council's officer report considers matters including impacts on highway safety, and its conclusions on that matter are informed by comments of the Highways Authority. While noting the proximity to existing schools and reported levels of local congestion, there is not substantive evidence to demonstrate the proposal would unacceptably exacerbate the existing issues, or which would lead me to a different conclusion on matters of transport and highways impacts of the development.
20. While the new units would not have access to a lift nor be affordable housing by definition, this is not a prerequisite for the development under the GPDO. Reference has been made to protected species, however there is not

² Paragraph C. Interpretation of Part 20 (1)

substantive evidence to support the likelihood of such species being present on the site itself nor of suitable habitat on the site which would be affected.

21. Several of the issues raised by third parties relate to matters which lie outside the scope of considerations for this appeal, which are limited by the GPDO as described above. As such they would not amount to reasons to withhold prior approval. Nonetheless, several of those matters, for example relating to structural stability and the operations of the management company, would fall to be considered separately. Details of construction arrangements fall under the conditions imposed by the GPDO as detailed below. If changes were required to the proposal in the future, this would be a matter for the appellant to address with the Council.

Conditions

22. Part 20 allows for the prior approval to be granted unconditionally or subject to conditions reasonably related to the subject matter of the prior approval, and the Council have suggested a number of conditions which it considers would be appropriate.
23. The GPDO imposes conditions on planning permission granted under Class A, Part 20. This includes, among others: timescales on completion, the need for the development to be carried out in accordance with the approved details and the need for details of management of the construction to be submitted to the local planning authority before commencement. It is not, therefore, necessary to repeat those conditions on a prior approval, although they should be noted by the appellant. As the drawings submitted include details of materials to match the existing, neither would a further condition relating to materials be necessary.
24. A suite of conditions has been suggested by the Highways Authority. However, it notes that the site is in a sustainable location, that the local highway network is protected by parking restrictions and, that a reduction in vehicle parking standards may be considered. As such, it is not apparent that the proposed additional parking is necessary to make the development acceptable. On this basis, conditions to ensure the delivery of the proposed parking arrangements, widening of the access, and further details of them, do not meet the test of necessity in this case. Given the acknowledgement of the site's sustainable location, travel information packs to promote use of local public transport, are similarly not necessary.
25. Given the site's verdant and landscaped setting, for reasons relating to the external appearance of the building, a condition is necessary to secure a scheme of soft landscaping to ensure acceptable visual impacts arising from the proposed works to the grounds. It would be an unreasonable burden to expect that particular approved soft landscaping to be maintained for the life of the development. For reasons of amenity and appearance, the delivery of the cycle and bin store should be secured.

Conclusion

26. For the reasons given the appeal is allowed and prior approval is granted.

C Shearing

INSPECTOR