



Appeal Decision

Site visit made on 4 February 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th February 2025

Appeal Ref: APP/H1515/W/24/3351536

Millfield Park, Ashwell's Road, Brentwood, Essex, CM15 9ST

- 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 Barry Merner of Millfield Essex Ltd against the decision of Brentwood Borough Council.
 - The application Ref is 24/00283/FUL.
 - The development proposed is described as conversion of an existing vacant former office building (with expired P.D. consent for (C3) dwellings), into 3No. two-bedroom dwellings by introduction of dormer windows. Plus, the demolition of garages, storage buildings and a derelict cottage to be replaced with 2No. three-bedroom semi-detached (C3) dwellings of a smaller cubic volume. All dwellings to be served by private and communal external amenity space, car & cycle parking, refuse & recycling storage and external works. Also, the permanent closure of one entrance gateway onto the highway.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have taken the address and description of development in the banner heading above from the planning application form.
3. The appellant's statement refers to amending the proposal to extend the red line boundary to include an additional communal amenity space with picnic tables and landscaping. The Procedural Guide for Planning Appeals is clear that the appeal process should not be used to evolve a scheme, and it is important that what is considered is essentially what was considered by the Council, and on which interested people's views were sought. Under the principles established by the Courts in *Holborn Studios Ltd*¹ to consider such a modification would be a substantive difference and procedurally could prejudice interested parties by depriving those who should have been consulted on the change the opportunity of such consultation. For this reason, I have determined the appeal on the basis of the plans that were before the Council when it made its decision.
4. Following submission of the appeal, the revised National Planning Policy Framework (the Framework) was published on 12 December 2024 and updated on 7 February 2025. The parts of the Framework most relevant to the appeal have not substantively changed from the previous version. As a result, I consider that there is no requirement for me to seek further submissions in respect of these matters, and I am satisfied that no party's interests would be prejudiced by my taking this approach.

¹ 1 *Holborn Studios Ltd v The Council of the London Borough of Hackney* [2017] EWCH 2823 (Admin)

Main Issue

5. The main issue is whether or not future occupiers of the proposed development would be provided with satisfactory living conditions with particular regard to the provision of amenity space.

Reasons

6. The appeal site comprises existing buildings proposed for conversion to residential use. The appeal site lies adjacent to existing residential development, predominantly comprising flats of multiple stories.
7. The Councils concern relates to the proposed amenity areas associated with the Post House dwellings, Nos 1, 2 and 3. With private amenity spaces ranging from 25.8sqm to 38.7sqm all three of the proposed residential units would fall short of the 50sqm as set out in the Essex Design Guide (EDG). Accordingly, the proposed development offers limited external private amenity space for future occupiers. Moreover, the location of the amenity space associated with No 1, being proximate to the gated vehicular access into the Millfield Park development and opposite an area of parking, would provide limited opportunities for privacy. Given the limited size of the amenity space I am not satisfied that the provision of a boundary treatment and/or landscaping would satisfactorily overcome such concerns without further diminishing living conditions.
8. It is recognised that in certain circumstances, including schemes that involve the conversion of existing buildings such as this, that opportunities for private amenity space may be limited due to the constraints of the site layout and built form. The appellant refers to a 25sqm standard. However, having regard to the EDG, this only applies where there is communal garden provision and that the land be retained as such in perpetuity.
9. Whilst I note that there is parkland within the blue line boundary shown on the location plan, at the time of my visit, I observed this land to include grazing for horses. Accordingly, such provision would provide limited opportunities for future occupiers to participate in outdoor recreation or for domestic activities such as sitting and hanging out washing etc. Furthermore, there is no mechanism before me to secure the land as communal amenity space and for its retention in perpetuity for such purposes. Consequently, I am not satisfied that this offers an appropriate provision for communal amenity space.
10. The appellant seeks to draw comparison with the amenity spaces associated with residential uses at Blocks B and C. However, these lie beyond the appeal site, and I do not have full details of the case before me. In any event, I have determined this appeal based on the evidence before me and on its own merits.
11. For the reasons stated, conflict arises with Policies BE14 and HP06 of the Brentwood Local Plan 2016-2033 insofar as they relate to living conditions. The proposal would also fail to accord with the provisions in the Framework relating to achieving well-designed places which promote a high standard of amenity for users.

Other Matters

12. The appeal site lies within the designated Green Belt. It is not disputed between the parties that the proposal is not inappropriate development having regard to the

Framework definition and the development plan. From the evidence before me I have no reason to reach a different view in this respect.

13. It is recognised that the proposal would make efficient use of an existing structure of local historic merit, together with the environmental credentials of doing such. However, this would not outweigh the harm identified.
14. Although no objections have been raised by technical consultees, this is a neutral matter which neither weighs in favour or against the proposal.
15. Any concerns regarding due process during the determination of the application fall outside of the remit of this decision

Conclusion

16. I have found conflict with the development plan taken as a whole. There are no other considerations, including the Framework, that outweigh this conflict. For the reasons given above, I conclude that the appeal should be dismissed.

R. Gee

INSPECTOR