



Appeal Decision

Site visit made on 21 November 2024

by E Dade BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 December 2024

Appeal Ref: APP/Q0505/W/24/3347091

27-29 Clayton Hotel, Station Road, Cambridge, Cambridgeshire CB1 2FB

- 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 Station Road Developments (Cambridge) Ltd against the decision of Cambridge City Council.
 - The application Ref is 23/01706/FUL.
 - The development proposed is erection of an extension to the rear of the hotel to provide 37 additional guest rooms plus other associated works.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is the effect of the proposed development on the living conditions of occupants of the Vesta Apartments, with particular regard to daylight, sunlight and outlook.

Reasons

3. The appeal site comprises a modern, seven-storey hotel with a restaurant, bar, meeting rooms and a gymnasium at ground floor and guest accommodation above. The surrounding area includes tall buildings of a mix of uses, including offices, retail, and residential flats. The site is close to Cambridge rail station, and the area is busy with pedestrian activity. The area therefore has a contemporary, urban character.
4. To the rear of the building is a landscaped public amenity space with seating and pedestrian routes to surrounding streets. The public space provides separation between the rear of the hotel and Vesta Apartments, a modern six-storey block of flats. The rear of the Vesta Apartments faces broadly south toward the appeal site and comprises multiple flats with single aspect rooms.
5. The Daylight & Sunlight Report, December 2023 (DLSL Report) assesses the daylight and sunlight implications of the proposed development on surrounding buildings, including the Vesta Apartments¹. The DLSL Report notes it is common practice to assess daylight and sunlight by reference to the guidelines in the 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice 2022', published by the Building Research Establishment (hereafter, 'the BRE guidance'), which advises it is important to safeguard

¹ Referred to as 'Great Northern Road (Block C1 & C2)' by DLSL Report

daylight to nearby buildings and badly planned development may make adjoining properties gloomy and unattractive.

6. The No Sky Line (NSL) metric divides points on a working plane which can and cannot see the sky. The BRE guidance advises that areas beyond the NSL receive no direct daylight and usually look dark and gloomy compared with the rest of the room. Supplementary electric lighting will be needed if a significant part of the working plane (20% of the room or more) lies beyond the NSL. The BRE guidance indicates that if the area of the existing room which receives direct skylight is reduced to less than 0.80 times its former value, this will be noticeable to the occupants and more of the room will appear poorly lit.
7. The BRE guidance recognises that existing windows with balconies above them typically receive less daylight. In accordance with BRE Guidance, the DLSL Report models the existing position and effects of the proposed development on NSL in scenarios with and without balconies. The NSL Analysis² found that 14 rooms, comprising 11 living/kitchen/dining rooms and three bedrooms, will experience proportional reductions between 20.1% and 26.8%.
8. The appellant considers the level of impact to be minor, and the majority of the room area would continue to have a direct view of the sky. The NSL Contours³ provide a graphical illustration of the regions where NSL would be lost within rooms. The appellant notes that it is inevitable that skylight diminishes towards the back of a single aspect room and considers NSL can be a misleading metric as it is not a measure of how much light there is in a room and does not take into account internal and external reflected light from external objects.
9. However, the DLSL Report demonstrates the effects of the proposed development on NSL would exceed the BRE guidance's threshold by a relatively small margin, but nonetheless would be at a level which would be noticeable to the occupants of affected rooms with more of the room appearing poorly lit. The threshold would be breached in 14 of 123 rooms assessed, and the proportion of rooms affected is not inconsequential.
10. The BRE guidance advises that, in designing an extension to a building, care should be taken to safeguard the access to sunlight for existing dwellings, noting that people are particularly likely to notice a loss of sunlight to their homes and if it is extensive, then it will usually be resented.
11. To calculate the loss of sunlight over the year, the annual probable sunlight hours (APSH) metric is used, meaning the total number of hours in the year that the sun is expected to shine on unobstructed ground, allowing for average levels of cloudiness for the location in question.
12. The BRE guidance states that if a room can receive more than one quarter of APSH, including at least 5% of APSH in the winter months between 21 September and 21 March, then it should still receive enough sunlight. Also, if the overall annual loss of APSH is 4% or less, the loss of sunlight is small.
13. The BRE guidance advises any reduction in sunlight access below these levels should be kept to a minimum. If the available sunlight hours are both less than the amount above and less than 0.80 times their former value, either

² Appendix 3 of Daylight & Sunlight Report, Point 2, December 2023

³ Appendix 3 of Daylight & Sunlight Report, Point 2, December 2023

over the whole year or just in the winter months (21 September to 21 March), and the overall annual loss is greater than 4% of APSH, then the occupants of the existing building will notice the loss of sunlight as the room may appear colder and less cheerful and pleasant.

14. The sunlight analysis⁴ models the APSH for rooms at Vesta Apartments, as existing and with the proposed development in situ, and shows that 47 rooms would experience an annual loss of APSH greater than 4%. In addition, there are many instances of rooms where the annual loss of APSH would exceed 4% and the Winter APSH would be less than 0.8 of the former value⁵. Therefore, a substantial proportion of rooms would experience a reduction in sunlight that is not 'small' and the development would not keep to a minimum the instances where there would be a reduction in sunlight access below the BRE guidance.
15. The BRE guidance requires assessment of all main living rooms of dwellings and conservatories and considers kitchens and bedrooms of lesser importance. Rooms where the loss of APSH would exceed BRE guidance thresholds would include a mix of bedrooms and open plan living/kitchen/dining rooms. Therefore, the loss of sunlight would be experienced in main living rooms.
16. The status of the BRE guidance was considered in the Rainbird judgement⁶ which concluded the guidance is not an instrument of planning policy but is intended to advise on site layout planning to achieve good sunlight and daylight and aims to help, rather than constrain, the designer. The appellant also refers to other appeal decisions where it was concluded the BRE guidance is not an authority on what can and cannot be considered acceptable. The BRE guidance itself emphasises its target values are "advisory" and may be varied to meet the needs of the development and location.
17. The judgement found that, whilst the BRE guidance provides numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design. The judgement provides examples of a historic city centre or an area with modern high-rise buildings, where a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.
18. The Rainbird judgement describes a two-stage process, and the appellant identifies example of its use in an appeal decision⁷. Rainbird advises to first determine whether there would be a material deterioration in conditions based on technical assessment, and second, apply judgement as to whether the deterioration would be acceptable in the particular circumstances of the case.
19. As set out above, the DLSL Report demonstrates the proposal would breach the NSL and APSH thresholds set out in the BRE guidance. The BRE guidance indicates a breach of its numerical targets would have adverse consequences that would be noticeable to occupants. The Vesta Apartments are modest, single aspect dwellings, and deterioration would not be compensated by other windows or communal space and would be felt acutely by occupants.

⁴ Appendix 3 of Daylight & Sunlight Report, Point 2, December 2023

⁵ Examples of rooms where proposed Winter APSH would be less than 0.08 and annual APSH % loss would be less than 4% include: R4/100, R5/100, R6/100, R8/100, R9/100, R10/100, R11/100, R12/100, R13/100, R14/100, R5/101, R7/101, R9/101, R11/101, R12/101, R13/101, R15/101, R5/102, R5/103, R6/103, R10/103, R11/103, R6/104, R7/104, R8/104, R9/104.

⁶ R (Rainbird) v The London Borough of Tower Hamlets [2018] EWHC 657 (Admin)

⁷ Appeal reference: APP/R5510/W/21/3288333

Therefore, based on the technical assessment, there would be a material deterioration in conditions.

20. I have been provided no evidence the height and mass of the proposed extension would be necessary to satisfy other factors of site layout design. The site has planning permission for alternative schemes for rear extensions of lesser height and massing than the appeal proposal, including additional bedrooms over five floors⁸ and 30 additional guest rooms⁹. The appellant indicates either consented scheme would be implemented in the event the appeal proposal is unsuccessful, thus representing realistic fallback positions. These fallback positions suggest the building can be extended without unacceptable harm to living conditions. Therefore, it has not been demonstrated that there are particular circumstances to justify a departure from the BRE guidance.
21. The proposed extension would project beyond the rear elevation of the existing hotel at significant height above the existing mass of the hotel. At present, the hotel has a smaller three storey rear element, with the taller massing being sited further away from the Vesta Apartments. From the vantage point of the south-facing apartments, due to its scale and massing, the proposed extension would appear imposing and create a sense of enclosure from some apartments. The proposal would therefore have an adverse effect on outlook for occupants of the Vesta Apartments.
22. The appellant asserts the Vesta Apartments wholly comprise serviced flats for visitor accommodation where occupants would not be in residence long enough to appreciate the significance of a noticeable change in daylight and has a lower requirement for skylight when compared to permanent residential occupancy due to the transitory nature of the accommodation. However, the submitted evidence does not clearly identify the number of flats used for short term accommodation and I have been provided no details of any permanent change of use of the building. In the absence of adequate evidence to demonstrate the apartments are occupied solely on a short-term basis, in my decision I have taken a precautionary approach. Consequently, I do not consider there is justification to accept lower standards of living conditions at the Vesta Apartments.
23. Taking into account the extent to which the BRE guidance would be exceeded and the need to apply the BRE guidance flexibly, I consider the proposal would result in moderate harm to the living conditions of occupants of Vesta Apartments, in respect of daylight, sunlight and outlook.
24. The proposal would not comply with Policies 56 and 58 of the Cambridge Local Plan 2018 (CLP) which together require new development successfully integrate buildings and support extensions where they do not unacceptably overlook, overshadow, or visually dominate neighbouring properties.

Other Matters

Conservation Area

25. The site is within the New Town and Glisson Road Conservation Area (CA) which covers an area comprising residential streets either side of Hills Road as

⁸ LPA ref: 22/00696/FUL

⁹ LPA ref: 24/00943/FUL

it enters the city from the railway bridge. The New Town and Glisson Road Area Conservation Appraisal 2012 summarises the CA's special interest as comprising the area's built character, which includes a mix of fine houses in spacious grounds, modest terraces of humble cottages and larger villa style houses, mainly from the 19th or early 20th centuries with two or three storeys of gault brick and slate roofs; the landscape setting, which has a backcloth of trees surrounds the meadows, Botanic Garden and sports fields to the south and west; and the area's historic development which can be interpreted from its built form and archaeology.

26. The appeal property appears typical of modern buildings within the CA, which CA appraisal note tend to be taller, with few in traditional brick, with steel frames and cladding being preferred. The proposed extension would have a similar rhythm and architectural quality to the existing form and materials would match the existing building with large areas of glazing to minimize the length and using a metal clad at the upper levels to break down the massing vertically. I consider the scale, massing, and design of the scheme would have a neutral effect on the character and appearance of the CA. I have also had regard to Council's Conservation Team assessment of the proposal and conclusions that there would be no harm to heritage assets.
27. For these reasons, the proposal would preserve the character and appearance of the CA and therefore would comply with Section 72(1) of The Planning (Listed Buildings and Conservation Areas) Act 1990.

Public benefits

28. The proposal would be within an accessible location, allocated for major change and regeneration by the CLP. The proposal would assist in delivering the CLP's economic strategy and benefit the local economy through increasing the provision of guest accommodation available to businesses in the area, generating additional employment opportunities and supporting the long-term viability of the hotel. In addition, the proposal would contribute to meeting the area's need for 1,500 additional hotel bedrooms, as identified by the CLP.
29. The proposal would promote energy efficiency and reduce emissions through inclusion of renewable energy technologies and compliance with the BREEAM 'excellent' standard.
30. Through increasing the number of guest rooms within the site, the proposal would represent the efficient use of previously developed land. The proposal would provide surface water attenuation and biodiversity enhancement through the addition of approximately 100 sqm of green roof space.
31. The hotel is in an accessible location near Cambridge rail station and is served by pedestrian and cycle infrastructure. The proposal would require no additional parking, and the additional guests would be accommodated by the existing drop-off/pick-up arrangements. The proposal would provide 12 additional cycle storage spaces for use by staff and guests.
32. The proposal would give rise to modest public benefits. However, I do not consider the magnitude of the scheme's benefits would be sufficient to outweigh the harm to living conditions identified above. Moreover, it is unclear if such other considerations are specific to the appeal proposal and would not be realised through implementation of the fallback positions.

Conclusion

33. The proposal would conflict with the development plan as a whole and there are no other considerations which outweigh this finding. Therefore, for the reasons given the appeal should be dismissed.

E Dade

INSPECTOR