
Appeal Decision

Site visit made on 27 September 2016

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 4th November 2016

Appeal Ref: APP/A2470/W/16/3154473

14A Queen Street, Uppingham, Rutland LE15 9QR

- 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 Giles against the decision of Rutland Council.
 - The application Ref 2015/0997/FUL, dated 4 November 2015, was refused by notice dated 26 April 2016.
 - The development proposed was originally described as "The building has been converted into one dwelling. A number of changes have been made further to the application that was approved in 2010. This includes additional velux windows, additional windows and the removal of a chimney on the rear elevation. Other internal alterations have been made to suit the new layout".
-

Decision

1. The appeal is dismissed insofar as it relates to the external staircase and walkway, the replacement and enlargement of 2 windows and the patio door. The appeal is allowed insofar as it relates to the roof lights, a new window to side elevation, the boundary wall and gates and reinstatement of chimney and planning permission is granted for the installation of 13 no roof lights, 1 no window to side elevation, 1.8m boundary wall and gates and reinstatement of chimney (part retrospective) at 14A Queen Street, Uppingham, Rutland LE15 9QR in accordance with the terms of the application, Ref 2015/0997/FUL , dated 4 November 2015 , so far as relevant to that part of the development hereby permitted and subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans insofar as they show the permitted elements of the scheme: P001 Revision C, P002 Revision A, P003 Revision A, P004 Revision C, P005 Revision C.
 - 2) The materials to be used in the construction of the chimney of the development hereby permitted shall match those used in the existing building.

Preliminary matters

2. The description of the development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of the development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description has been agreed. I have, however, used the description of the development taken from the appeal form and Council decision letter in my formal decision as this is a clearer and more
-

accurate description of the development. It is clear that the Council assessed the application on this basis and so shall I.

3. The planning application, the subject of this appeal, has been dealt with by the Council as being part retrospective. I noted on my site visit that some of the works included on the submitted plans had already taken place in accordance with the plan and some had not. I also observed that in some cases there were differences between what was identified as the existing elevations and what appeared on site. For the avoidance of any doubt, my determination of the appeal is based on the drawings submitted with the application only.
4. It is also clear from the evidence provided by the appellant that a separate appeal has been submitted on the neighbouring property. Again, for the avoidance of doubt, my consideration has been to the proposed development associated with 14A Queen Street under the planning application reference set out in the above heading.

Main Issues

5. The main issues are (i) the effect of the development on the living conditions of the occupants of 6 and 8 Queen Street, with particular regard to privacy and noise and (ii) whether the development would preserve or enhance the character or appearance of the Uppingham Conservation Area.

Reasons

Living conditions

6. The appeal site comprises a first and second floor flat which sits above a shop fronting onto High Street. The Council have indicated that the building dates from the early 19th century. The rear of the building, where the majority of external alterations are proposed, has two distinct elements. One side of the elevation is a three storey red brick gable; the other is two storeys with a hipped roof. These face a public car park which is bounded by buildings on all four sides. There are a variety of different uses in the immediate vicinity of the site, including the public library and a number of residential properties. I understand that planning permission was granted in 2010 for the conversion of the unit to residential use and for external alterations.
7. The Council's main concern with regard to living conditions relates to the use of the proposed first floor walkway and balcony. Although the 2010 permission included a stairway and balcony, the one proposed here would be deeper and wider than that already permitted and could be used in a more intensive manner. At its widest point, the balcony would be capable of accommodating patio furniture and being used for sitting outside. As a result, there would be opportunities to look directly across into the relatively close first floor windows of No 6 and No 8 and down into their private amenity space. Irrespective of the likely occasional use of the balcony, this would still allow what I consider to be an unacceptable level of overlooking and both a perceived and actual loss of privacy to neighbouring residents.
8. It would not be unusual for there to be some noise originating from the gardens and private spaces of residential properties. However, in this case the noise would come from an elevated position relatively near to the first floor windows of the neighbouring properties and directly above their amenity space. This would differ from what might normally be expected and lead to an

unacceptable level of disturbance to the detriment of the neighbours' living conditions. This would particularly be the case when the space below the balcony is being used.

9. The appellant has suggested that a planning condition could be imposed requiring some form of screening to be installed. However, in the absence of any further details I cannot be satisfied that screening would provide either a sufficient level of mitigation or that it would be visually acceptable within the Conservation Area. Therefore, I do not consider it would be appropriate for this harm to be addressed by such a condition.
10. The neighbouring occupants have also raised concerns about the potential for replacement windows to have an unacceptable impact on privacy. While the replacement patio doors would provide access onto the balcony, they would not provide any greater degree of visibility of the amenity space or neighbouring windows than the original windows. Furthermore, 'Window B' is small and not related to a habitable room. While it faces the windows of the neighbouring properties, its size and use mean that it is unlikely to cause unacceptable harm to privacy.
11. However, these factors do not alter my view that the use of the balcony would materially harm the living conditions of the occupants of 6 and 8 Queen Street. Accordingly, there would be conflict with policy CS19 of the Rutland Core Strategy (CS)(2011) and policy SP15 of the Rutland Site Allocations and Policies Development Document (SAP)(2014) which, amongst other things, seek to ensure development protects the living conditions of neighbouring residents.

Character and appearance of the Conservation Area

12. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. This is reflected in Paragraph 131 of the National Planning Policy Framework (the Framework) which states that in determining planning applications, the desirability of sustaining and enhancing the significance of heritage assets should be taken into account.
13. There are a number of distinct elements to the proposal which have different implications for the consideration of the development's effect on the Conservation Area. The Council has raised a particular concern about the effect of the two replacement windows (identified as windows C and E on the submitted plans) and the installation of the patio doors (window A). I shall address these first, before turning to the other elements.

Windows A, C and E.

14. Window C has already been installed in accordance with the plans, while windows A and E would differ from the original windows and what is currently in place. All three features are in the rear elevation of the building and would be highly visible and prominent features when viewed from the public car park.
15. As well as some specific concerns on the nature of each window, the Council has specifically objected to the use of UPVC, arguing that this detracts from the traditional character of the building and wider area. The overtly modern appearance of the UPVC frames strikes a jarring contrast with the traditional

design and materials of the host building. The attempts to soften the impact through the use of brick arched headers and glazing bars are not sufficient to mitigate the harm caused. While I note the appellant's comments regarding the nature of modern UPVC units, the use of obviously modern materials on a prominent and public facing part of the building would not be appropriate.

16. While the site is mainly only visible from the car park itself, this is still a publically accessible location within the Conservation Area which is likely to be well used during the day by people coming and going with a high degree of frequency. The building contributes to the significance of the Conservation Area by virtue of its age, its intrinsic character and quality, which relates well to other older buildings in the area, and its location near to the High Street and shopping areas. The presence of modern buildings, including the library, does not detract from that significance. The lack of wider views into the site does not significantly reduce the importance of the building to the character of the area as a whole or mean that alterations to the building should be treated with less attention.
17. The appellant has drawn my attention to the fact there are a variety of window types and materials in the vicinity of the site, including those that use UPVC. While I did see such examples, I also noted that the prevailing materials on the older buildings were timber and that these were appropriate to the character of the area. These examples do not, therefore, justify the further erosion of the character of the area that would result from these elements of the development.
18. In addition to my concerns on the materials used, I also note that window C has replaced one with a more vertical appearance that was off-centre in the wall. This reflects the asymmetrical nature of the fenestration which appears to be a feature of the original building. The window now in place, and as shown on the plans, is more central in the wall and its proportions are more reflective of the horizontal emphasis of the ground floor window. This alteration has caused material harm to the original character of the building, removing some of the elements which contributed toward its significance to the Conservation Area. The size and shape of the window is not, therefore, an appropriate or acceptable alteration.
19. The proposed window E would be larger than the original and that permitted in 2010. However, it would retain the off-centre character of the original and the change in window type would be an improvement on the original design. However, this does not outweigh the concerns expressed above in terms of the proposed materials.
20. The patio doors (window A) would be roughly at the same height as the original window, but would be narrower and taller. The 2010 permission retained the original window but included a door to one side. The loss of the original window has resulted in a significant detrimental change to the appearance of the building. While the appellant has attempted to retain some of the character of the window in terms of the brickwork and glazing bars, the materials proposed would undo this and emphasise the modern character of the doors. This would serve only to exacerbate the harm resulting from the loss of the window.

Other elements

21. The Council has raised no particular concerns over the reinstatement of the chimney, the installation of the roof lights, the boundary wall and gates, window B or, in terms of the effect on the Conservation Area, the balcony and stairway.
22. I have seen nothing to suggest that I should disagree with their conclusions on these matters. The roof lights have already been installed and are not visible from any public vantage point and would have no impact on the living conditions of neighbouring occupants. Window B is UPVC but is small and discretely located in a side wall not particularly visible from any publically accessible vantage point. I consider that the effect of this would be somewhat different to that of windows A, C and E. The wall and gates are already in place and have been built from sympathetic materials which match the host building. In all cases, I am satisfied that these elements of the development would have a neutral effect and would therefore preserve the character and appearance of the Conservation Area. The reinstatement of the chimney, by virtue of returning the building to its original state, would enhance the character and appearance of the Conservation Area.
23. These elements of the development would not, therefore, conflict with policies CS19 and CS22 of the CS and policies SP15 and SP20 of the SAP which, amongst other things, seek to ensure development within Conservation Areas is of a high standard of design which protects and enhances local distinctiveness and character. Although not mentioned in the Council's reasons for refusal, I also find that these elements of the development would not conflict with Policy 1 of the Uppingham Neighbourhood Plan which requires development to complement the surrounding area and the character and heritage of the environment. These elements would be acceptable and can be allowed.
24. The balcony and stairway would also not cause material harm with regard to their character and appearance and would also not conflict with the above policies. However, this would not outweigh my concern over the use of the balcony and its impact on living conditions.

Conclusion – Character and appearance

25. I find that windows A, C and E would cause material harm to the character and appearance of the Conservation Area. The harm to the significance of the Conservation Area would be less than substantial in the context of paragraph 134 of the Framework. In these circumstances, I am required to weigh the harm identified against the public benefits of the proposal, including securing the optimum use of the heritage asset. The appellant has indicated that the benefits associated with the development are an improvement to the quality of living accommodation and the delivery of residential uses within a sustainable location. In my view, these benefits are not reliant on the design or nature of the windows and I have seen no evidence to suggest that they could not be achieved in another, more appropriate, way. Therefore, I see no reason to conclude that the development is the only way of securing a residential use for the building or that the limited private benefits associated with the details of the windows would outweigh the harm identified.

26. Therefore, windows A, C and E would be contrary to the requirements of policies CS19 and CS22 of the CS and policies SP15 and SP20 of the SAP, Policy 1 of the Uppingham Neighbourhood Plan and the requirements of paragraphs 131 and 134 of the Framework.

27. As I have already indicated, the other elements of the scheme would not harm the character or appearance of the Conservation Area.

Other matters

28. I have noted the comments made by interested parties, but do not consider that the issues raised would alter my conclusions. I have concluded that the balcony is not acceptable and issues relating to the discharge of rainwater goods are not within the scope of this appeal.

Conclusion

29. The scheme includes a variety of distinct elements, and I have found some of them to be acceptable and others not. In these circumstances it is open to me to issue a 'split' decision in which parts of the scheme are allowed and parts dismissed. I will exercise that power in this instance. For the reasons given above I conclude that the appeal should be allowed in part and dismissed in part.

Conditions

30. The Council has not suggested any specific conditions. The majority of the amendments I have allowed have already been implemented and thus it is not appropriate to impose the standard condition on timescales. However, the reinstatement of the chimney has not been carried out and thus in the interests of certainty, I have imposed a condition confirming the approved plans. In addition, I have imposed a condition requiring the materials to be used in the reinstatement of the chimney match those of the host building in the interests of the character and appearance of the area.

S J Lee

INSPECTOR