
Appeal Decision

Site visit made on 14 March 2017

by David Troy BSc (Hons) MA MRTPI

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

Decision date: 10 April 2017

Appeal Ref: APP/V2825/W/16/3165918

Former Factory Premises, rear of 26 Lorne Road, Northampton NN1 3RN

- 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 M Hussain against the decision of Northampton Borough Council.
 - The application Ref N/2016/1084, dated 10 August 2016, was refused by notice dated 7 November 2016.
 - The development proposed is change of use from factory premises (Use Class B2) to four (4x) self-contained 1-bedroom residential apartments (Use Class C3) and extension to external staircase landing and additional railings.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr M Hussain against Northampton Borough Council. This application is the subject of a separate Decision.

Procedural Matter

3. I have used the Council's description of the development in reaching my decision as it more fully describes the details of the development than that given on the original planning application form. The appellant's appeal form also makes reference to the updated description. I shall determine the appeal on this basis accordingly.

Main Issues

4. The main issues are the effect of the development on (i) the living conditions of the occupiers of the neighbouring properties with particular regard to overlooking and privacy and (ii) the living conditions of the future occupants of the apartments with particular regard to outlook.

Reasons

Living conditions of the occupiers of the neighbouring properties

5. The appeal site consists of a vacant traditional two storey industrial building located in a predominantly residential area of high density Victorian terraced properties. It is situated in a backland location surrounded by residential properties with access via a shared pedestrian passage way between Nos. 26
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- and 28 Lorne Road serving the appeal property, a commercial storage building and the adjacent dwellings.
6. The proposal entails the change of use of the appeal building to four one bedroomed self-contained apartments including the installation of additional windows and, the construction of a first floor balcony with access to an external staircase landing and additional railings.
 7. The side and rear elevations of the building would be located immediately adjacent to the common shared rear boundaries of a number of properties on Louise Road and Lorne Road. Fixed and obscure windows would be inserted into a number of the window openings on these side and rear elevations.
 8. Whilst the windows on the side elevations of the building would be located some distance from the rooms on the rear elevation of adjacent properties on Lorne Road and Louise Road, it would be situated in close proximity to the rear gardens of the adjacent dwellings. The occupiers of these properties would use these garden areas to carry out leisure activities where they would be observed at close quarters by the future occupants of the proposal, particularly during the summer months. Whilst the fixed and obscure windows would reduce the impact of the proposal to some degree, I consider the proposal would result in an unacceptable level of overlooking, in particular from the unobscured first floor level bedroom window on the side elevation to the rear gardens at Nos. 33 and 35 Louise Road and to a more limited extent from the first floor balcony to the rear gardens of Nos. 26 and 28 Lorne Road.
 9. The rear elevation of the building would be about 8m from the windows in the two storey apartments at No. 16 Lorne Road. Given the modest separation distance and orientation of the buildings, I consider that the proposal would result in an unacceptable level of overlooking and loss of privacy from the unobscured kitchen and bedroom windows on the rear elevation of the proposed building to the rooms of the adjacent apartments.
 10. I note the appellant's comments regarding the apartment development at 16 Lorne Road. However, based on limited evidence provided and my observations during my site visit, this apartment development including the existing terrace property fronting onto Lorne Road has different development characteristics to the appeal scheme. The appellant makes comments regarding the existing general permitted industrial Class B2 use of the appeal building and the incompatibility with the surrounding residential uses. Whilst I recognise that the removal of this non-conforming industrial use maybe the preferred course of action, this does not set a precedent for such an inappropriate residential development in this location. I therefore accord these matters limited weight.
 11. Consequently, I conclude that the development would adversely harm the living conditions of the occupiers of the neighbouring properties with particular regard to overlooking and privacy. It conflicts with Policies S10 and H1 of the West Northamptonshire Joint Core Strategy 2014 (JCS). These policies, amongst other things, seek to ensure that new development achieves the highest standard of sustainable design and protects the amenity of the occupiers of existing buildings and neighbouring properties. In addition, it would not accord with the National Planning Policy Framework (the Framework) that development should seek to secure a good standard of amenity for all existing and future occupants of land and buildings (paragraph 17).

Living conditions of the future occupants

12. The proposed apartments would be designed with new window and door openings including a number of fixed and obscure windows and high level windows on the side and rear elevations and rooflights above the living accommodation at first floor level. Whilst such design elements would reduce the impact of the proposal on the adjacent properties and provide adequate light, I consider these features would severely restrict the outlook for the future occupants of the proposed apartments and result in a poor quality living environment particularly for the first floor bedroom served solely by a fixed and obscure glass window on the rear elevation of the building.
13. I have considered the appellant's statement that the proposed design of the apartments has been carefully considered in order to minimise any impacts on the living conditions of the future occupants and the occupiers of the adjacent properties. Whilst I agree with the appellant that the approval required for these works under building regulations is a separate matter from those covered by Planning Legislation, there is nevertheless a potential inherent conflict between the requirements in this case. Notwithstanding this, the development as proposed comprising of a number of fixed and obscure windows and high level windows when considered against the policies contained in the JCS would not result in a satisfactory living environment for the future occupants for the reasons set out above.
14. I also note the appellant's willingness to carry out further changes and allow the imposition of conditions to reduce the impacts on the living conditions as well as restrict the use of the building to student accommodation only. This, however, would result in material changes to the proposal before me and in any event, I am required to consider the proposal on the basis of the same details that were before the Council when it made its decision. I therefore accord these matters limited weight.
15. Consequently, I conclude that the proposal would result in harm to the living conditions of the future occupants of the proposed apartments with particular regard to outlook. It conflicts with amenity aims of Policies S10 and H1 of the JCS and the Framework for the reasons set out above.

Other matters

16. The appeal site lies within the Boot and Shoe Quarter Conservation Area (CA). Special attention has to be paid to the desirability of preserving or enhancing the character or appearance of the area. Some external changes are proposed to be made to the property. However, given the small extent of the changes and the limited public views of the proposal, I consider the development would preserve the character and appearance of the CA.
17. The appellant considers that the proposal forms a sustainable form of development. Whilst I recognise that the proposal would boost the supply of housing and would make efficient re-use of a vacant building in an accessible location in accordance with the development plan and the Framework, these benefits do not outweigh the harm I have identified in this case.
18. I have noted the objections raised by local residents to the proposal. However, in light of my findings on the main issues of the appeal, my decision does not turn on these matters.

Conclusion

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

David Troy

INSPECTOR