

Appeal Decision

Site visit made on 2 May 2017

by Tom Gilbert-Wooldridge BA (Hons) MTP MRTPI IHBC

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

Decision date: 26th May 2017

Appeal Ref: APP/G2815/W/17/3168146

2 Bedford Road, Rushden, Northamptonshire NN10 0NB

- 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 J Kumar against the decision of East Northants District Council.
 - The application Ref 16/01912/FUL, received by the Council on 12 September 2016, was refused by notice dated 29 November 2016
 - The development proposed is described on the application form as conversion of dwelling to 4 self contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. An amended plan (A123-3a) has been submitted with the appeal documents showing a typographical correction to the internal floor area of Flat 3 (as 37m² not 31m²), a reduction in the size of Flat 2 (from 39m² to 37m²) and an increase in the size of Flat 4 (from 60m² to 61m²). There are no external amendments. The Council has commented on the amended plan as part of its appeal statement. Given the limited and internal nature of the amendments, it has not been necessary to re-consult with interested parties. For the avoidance of doubt, I have taken amended plan A123-3a into consideration as part of my decision.
3. The appellant refers to another amended plan (A123-3b) which alters Flat 4 to a one-bedroom flat. However, I have not been provided with a copy of this plan and it is not clear whether the Council has seen a copy. It also represents a significant change to the proposed development which would be better addressed through a fresh planning application. Thus, I have not been able to take amended plan A123-3b into account.

Main Issues

4. The main issues are whether the proposed development would provide satisfactory living conditions for future occupants with regards to (a) internal space and (b) noise.

Reasons

Living conditions – internal space

5. The North Northamptonshire Joint Core Strategy (JCS) was adopted in July 2016 and applies the government's nationally described space standards
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- (NDSS) through Policy 30. I have thus used the NDSS in assessing the proposed development.
6. The NDSS requires an internal floor space of 39m² for 1 bedroom 1 person units with a bathroom, or 37m² where a shower room is provided. The appellant indicates in their Design and Access Statement and appeal statement that Flats 1 and 2 are proposed to be studio flats as 1 bedroom 1 person dwellings, which the Council does not dispute. Although the combined lounge/bedroom area for Flats 1 and 2 could theoretically accommodate a double bed and two people, in reality the space would be overly restricted taking into account other furniture. Thus, I have regarded both flats as 1 bedroom 1 person units.
 7. On this basis, Flat 1 would exceed the internal floor space requirement of the NDSS at 40m². Flat 2 shows a bathroom rather than a shower room and so is slightly under the 39m² requirement. However, the bathroom is approximately the same size as the Flat 1 shower room and so the effect on the remaining internal floor space for Flat 2 is negligible. Thus, I consider that the internal floor space would be of a sufficient size in both flats for a single occupant.
 8. Flat 3 would have a separate bedroom and lounge and is considered to be a 1 bedroom 1 person unit by the appellant, which the Council has not disputed. With a shower room as shown on the plan, it would meet the minimum space standard of 37m². Thus, I consider that the flat would be of sufficient size for a single occupant.
 9. Flat 4 would have two bedrooms and is considered to be a 2 bedroom 3 person unit by the appellant, which the Council has not disputed. The NDSS requires an internal floor space of 61m² for such units which Flat 4 would provide. However, it would require one bedroom to accommodate a double bed in order to house three people. The existing bedroom that would be divided into two as part of Flat 4 has restricted height with a sloping ceiling. The two bedrooms would be long and narrow with limited headroom. Accommodating a double bed in either bedroom would be difficult and would result in cramped living space. As a consequence, this would be harmful to the living conditions of future occupants of Flat 4.
 10. Concluding on this main issue, while Flats 1, 2 and 3 would meet the minimum space standards set out in the NDSS, Flat 4 would provide bedrooms of insufficient size to be considered large enough for a 2 bedroom 3 person unit, resulting in harm to the living conditions of future occupants. Therefore, the proposed development would not accord with Policies 8 and 30 of the JCS which, amongst other things, seek to avoid unacceptable impacts on the amenities of future occupiers and require schemes to meet the NDSS. The development would also be contrary to paragraph 17 of the National Planning Policy Framework (NPPF) which seeks a good standard of amenity for all future occupants of land and buildings.

Living conditions – noise

11. The existing condensers for the ground floor shop unit are located at the south-west corner of the building adjacent to a raised garden terrace at the rear that is accessed from the first floor of the existing building. At my site visit, I observed that the condensers emitted a regular low humming sound. This was particularly audible standing near to the condensers on the garden terrace. As

the condensers appear to serve refrigeration equipment, it is likely that the noise is emitted throughout the day and night.

12. Flat 2 would be located sufficiently far away from the condensers with the screening effect of the proposed fencing and first floor extension. Thus, there would be little effect on the living conditions of future occupants of Flat 2 in terms of noise within the flat, and the fencing between the condensers and the outdoor space for Flat 2 would limit any adverse effects externally.
13. The condensers would be sited just below the rooflight windows of Bedroom 1 in Flat 4. Although they emit a low humming sound, the regular pattern of noise would be noticeable, particularly with the windows open. It could be potentially disruptive, particularly during sensitive periods at night. In the absence of a noise/acoustic assessment, it is not possible to be certain that there would not be a significant adverse impact on future occupants of Flat 4.
14. Taking into account paragraph 123 of the NPPF and the Noise Policy Statement for England, significant adverse impacts should be avoided. I agree with the Council that it would not be reasonable to require a noise assessment and mitigation through planning conditions, as it has not been demonstrated that the adverse impacts are less than significant or could be effectively mitigated.
15. I note that it is common for flats to be located above shops in urban areas, but this does not prevent the need for adequate assessment and mitigation and each case should be examined on its own merits. It may be possible to upgrade, adapt or replace condensers to improve noise and vibration effects, but in the absence of any specific information, I cannot be certain whether this would be sufficient in this instance. Although the Council did not appear to request further information relating to noise during the application process, this does not alter the need for further information.
16. Concluding on this main issue, the absence of adequate assessment and mitigation measures means that it is uncertain whether the proposed development would provide satisfactory living conditions for future occupants in terms of noise. Therefore, it would not accord with Policy 8 of the JCS which seeks to avoid unacceptable impacts on the amenities of future occupiers, including those relating to noise. The development would also be contrary to the NPPF, which seeks a good standard of amenity for all future occupants of land and buildings (paragraph 17) and to avoid noise giving rise to significant adverse impacts (paragraph 123).

Other Matters

17. The appeal property is of some architectural and historic interest and could be regarded as a non-designated heritage asset. Bringing vacant parts of the property back into use would be a benefit to the heritage asset, noting the appellant's comments that the existing five bedroom property has been difficult to sell or let. The proposal would have little effect on the setting of the adjoining listed buildings at Hill Farm or the character and appearance of Rushden Conservation Area a short distance to the north. It would also increase the supply of housing. However, these benefits and considerations do not outweigh the unsatisfactory living conditions for future occupants that I have identified above.

18. The appellant argues that the Council does not have up to date development management policies for the area and suggests that paragraph 14 of the NPPF and the presumption in favour of sustainable development applies as a result. However, just because policies are old does not mean that they should be regarded as being out of date, mindful of paragraph 211 of the NPPF. It has not been demonstrated in this case that the development plan is absent, silent or out of date. Given that the proposal does not accord with the development plan in terms of the JCS, paragraph 14 and the presumption in favour of sustainable development do not apply.

Conclusion

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

Tom Gilbert-Wooldridge

INSPECTOR