
Appeal Decision

Site visit made on 20 November 2018

by JP Tudor BA (Hons), Solicitor (non-practising)

an Inspector appointed by the Secretary of State

Decision date: 18 December 2018

Appeal Ref: APP/E0345/W/18/3205140

3 Prospect Street, Caversham, Reading RG4 8JB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr D McCaffery (Just Caversham Development Limited) against Reading Borough Council.
 - The application Ref 180563 FUL is dated 29 March 2018.
 - The development proposed is change of use of restaurant (A3) to retail/professional & financial services (A1/A2); upwards extension to 3 Prospect Street to provide additional residential unit; conversion of rear part of restaurant to provide 4 new residential units; demolition of 1a North Street and replacement with building containing 4 residential units.
-

Decision

1. The appeal is dismissed and planning permission for change of use of restaurant (A3) to retail/professional & financial services (A1/A2); upwards extension to 3 Prospect Street to provide additional residential unit; conversion of rear part of restaurant to provide 4 new residential units; demolition of 1a North Street and replacement with building containing 4 residential units is refused.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published on 24 July 2018. The main parties have had the opportunity to comment on any relevant changes during the course of the appeal and I have considered any responses received. I am required to consider the appeal on the basis of the current Framework.
3. The appeal is against the Council's failure to determine the application within the prescribed time. The Council has advised that had it been in a position to determine the application, it would have refused it because of concerns relating to effects on the character and appearance of the area, the living conditions of future and neighbouring occupiers, air quality, parking and highway safety and the absence of a contribution towards affordable housing.

Main Issues

4. Therefore, the main issues are:
 - the effect of the proposed development on the character and appearance of the area;

- whether the development would provide acceptable living conditions for future occupiers of units 1-4, with particular regard to outlook, daylight and sunlight, privacy, and the security of the pedestrian access;
- the effect of the proposed development on the living conditions of occupiers of 3 North Street, with reference to privacy;
- whether it has been demonstrated that satisfactory air quality can be achieved for future residents;
- the effect of the proposed development on parking and highway safety in the area; and,
- whether or not a contribution towards affordable housing is necessary.

Reasons

Character and appearance

5. The appeal site consists of an irregular L-shaped plot of land with frontages on to Prospect Street and North Street, a no through road. North Street comprises mainly two storey Victorian residential terraces. The houses are modest in size with attractive brick or stone detailing above doorways and other decorative brickwork. The western end of the street marks the transition towards the junction with Prospect Street with a bungalow, an open tarmac area and a three storey apartment building at 1 North Street.
6. The façade of the proposed three storey building, replacing the bungalow and infilling the open tarmac area, lacks architectural detailing or decorative features. Whilst the appellant submits that it has an uncluttered, contemporary design reflecting the 'unadorned' adjacent apartment building at 1 North Street, that building does make some reference to surrounding older buildings by incorporating brick string courses and decorative brickwork above its windows and doorway. Its gabled roof feature also appears sympathetic to the neighbouring building on the corner of North Street and Prospect Street. Therefore, notwithstanding its relative modernity, the apartment building at No 1 acknowledges the surrounding built environment without lapsing into unconvincing pastiche.
7. In contrast, the use of facing bricks and a pitched roof on the proposed new building on North Street forms a very limited concession to the design of either the two storey terraces to the east or the three storey buildings leading towards and on Prospect Street. The fenestration at first and second floor levels bears little similarity in terms of the number, size, style or spacing of windows on neighbouring buildings. Although there would be a set down in the ridge of the roof, it would still be higher than No 3 and would do little to dissipate the overall scale of the proposed building.
8. There is an integral garage within the adjacent building at No 1 and an undercroft element below a side extension to the house at No 3. There are other garages opposite, to the rear of the properties fronting Prospect Street. However, the ground floor of the new North Street building would be dominated by 3 integral parking spaces stretching across much of its considerable width. They would untidily protrude beyond the undercroft completing a largely inactive street frontage uncharacteristic of much of the area.

9. The height and mass of the existing central rear extension would be reduced and a kitchen extraction system removed, but given that the extension is single storey and located to the rear with only partial public views, any visual benefit to the area would be limited. It is also acknowledged that the existing bungalow to be demolished, at 1A North Street, is of little architectural merit and that the adjacent tarmac area is unattractive. Nevertheless, that area and the bungalow area do provide a visual break between the three storey buildings towards the junction with Prospect Street and the established two storey Victorian terraces which populate the remainder of North Street.
10. Whilst, in principle, the bungalow could be replaced and the gap infilled, the proposed building would not successfully unify the street scene because its design and scale fails to sufficiently acknowledge the surrounding built environment. In combination, the above factors would result in a dominant three storey building with a bland and uninspiring façade that would appear unsympathetic and discordant within the street scene.
11. Prospect Street is a main route through the commercial centre of Caversham. The additional floor proposed to the existing two storey building, a former Chinese restaurant with a flat above, would have matching windows and a gable feature characteristic of other buildings along this arterial road. However, although there are different types of frontages along Prospect Street, the alterations to the shopfront to facilitate a bin store, including the introduction of an additional doorway towards its centre, would appear awkward and incongruous and cause visual harm to the appearance of the building at street level.
12. Overall therefore, I conclude that the proposed development would harm the character and appearance of the area. It follows that it would be contrary to policy CS7 of the Reading Borough Local Development Framework: Core Strategy (CS)¹ and policy DM23 of the Council's Sites and Detailed Policies Document (SDPD)² which indicate that all development should be of high quality design which responds positively to its local context and respects the character of existing buildings. It would also fail to accord with similar objectives expressed within paragraph 127 of the Framework.

Living conditions of future occupiers

13. The existing long, single storey, rear extension to the former restaurant would be converted to provide 4 ground floor flats. The gated access to them from North Street via an undercroft passageway leading to a narrow path would create an immediate sense of enclosure, exacerbated by adjacent three storey buildings and boundary walls, albeit lower than those existing.
14. Floor to ceiling windows and doors which open onto private courtyards, oriented towards the south, form an attempt to mitigate the enclosing effects of this backland area. However, the one bedroom flat at unit 4 is single aspect as are the other ground floor flats effectively, despite some additional windows. Moreover, the courtyards are limited in width, with the courtyard at unit 1 partially covered by an overhead privacy screen to limit overlooking from the

¹ Adopted January 2008 (With Alterations Adopted 27 January 2015)

² Adopted October 2012 (With Alterations Adopted 27 January 2015)

flats above. The necessity for such measures is indicative of the level and extent of development proposed within a compact site.

15. Whilst the presence of surrounding built forms is to be expected in a town centre location, the proximity of higher buildings and boundary walls, the backland nature of the plot and the design described would result in an oppressive, confining environment for future occupiers of the ground floor flats.
16. Although the majority of the windows and courtyards would face in a southerly direction, there is limited information about the levels of daylight and sunlight that would reach them, as the submitted Daylight and Sunlight Assessment³ is restricted to effects on neighbouring properties. Therefore, I am not persuaded, on the basis of the evidence before me, that access to daylight and sunlight would be sufficient, given the design and the proximity of surrounding built forms.
17. The Council has expressed concerns about overlooking of the courtyards from the existing apartments at 1 North Street and the new apartment block that would be adjacent to it. However, given that the courtyards would be to the south, and a privacy screen would be partially cover the courtyard of unit 1, I am satisfied that views would be angled and partial and no more than might be expected in a built-up area. Therefore, the ground floor flats would not be subject to harmful overlooking.
18. Whilst I have already found that the entrance from North Street would provide a poor quality access to the ground floor flats, the Council submits that a lack of natural surveillance would lead to a fear of crime. However, the appellant advises that the access would be secured by high-quality, lockable gates with well-lit walkway. Sight lines should be clear and there would some views from glazed front doors. Some of those elements could also be ensured by condition. Therefore, the proposed access would be unlikely to engender a fear of crime.
19. Taking the above factors into account, I conclude that units 1-4 would not offer acceptable living conditions for future occupiers, with particular regard to outlook, daylight and sunlight. Therefore, it would conflict with policies DM4 and DM10 of the SDPD which seek to ensure that development does not lead to a detrimental impact on the living environment of new residential occupiers in terms of overbearing effects and access to sunlight and daylight, including in relation to outdoor space.

Living conditions of occupiers of 3 North Street

20. It is submitted by the Council that there would be overlooking of the rear garden of the adjacent property at 3 North Street from first and second floor flat windows, serving living rooms, of the proposed 3 storey North Street building. Although the Council refers to units 5 and 8, it seems to me that the relevant windows would be those serving units 6 and 8 as they are nearest to the garden of No 3.
21. The first floor flat (unit 6) would project beyond the main rear elevation of the No 3, bringing the rear windows closer to the back garden of that adjacent property. Notwithstanding the southern orientation, the width and height of the glazed window, extending across most of the living room, would provide

³ Prepared by Herrington Consulting Limited - March 2018

angled views towards the garden of No 3, including parts of a patio area. The proposal acknowledges potential overlooking from those windows by the inclusion of a privacy panel at roof level over part of the courtyard of unit 1. As the garden of No 3 would adjoin that courtyard, it is reasonable to conclude that there would be overlooking or the perception of being overlooked for people using the garden.

22. A cut away in the eastern rear corner of the building at second floor level would result in the window serving the living room of unit 8 being further back and roughly in alignment with the main rear elevation of No 3. Although potential overlooking from the balcony has been addressed by the use of 1.8 metre high privacy screens, there would be some views from the windows down towards the adjoining garden.
23. It is submitted by the appellant that the extent of overlooking of a neighbouring garden would be no more than is common in a row of properties. However, No 3 is at the end of its terrace and the introduction of two stepped expanses of window, at first and second floor level, in close proximity to its garden would be likely to induce of a sense of being overlooked from a substantial neighbouring building. Given the acknowledged important contribution of outdoor living space to quality of life, such overlooking or the perception of it would have a detrimental effect on occupants of the neighbouring dwelling.
24. Accordingly, I conclude that the proposed development would harm the living conditions of occupiers of No 3, with regard to a loss of privacy. Therefore, it would not comply with SDPD policy DM4 which, amongst other things, seeks to protect the privacy of occupiers of existing residential properties.

Air Quality

25. The Council advises that the appeal site is located within an Air Quality Management Area but that its Environmental Protection team is not concerned that the development would have a significant impact on air quality. It is already partly residential but the proposal would introduce additional residential occupiers to an area with poor air quality.
26. SDPD policy DM19 confirms that in such circumstances mitigation is necessary and should be detailed in any planning application. The Council considers that the appellant has failed to demonstrate that satisfactory air quality could be achieved through alternative means of ventilation. However, the Council refers to various possible forms of mitigation to protect the health of future residents, including fixed windows or mechanical ventilation. Notwithstanding its objection, the Council has provided a condition requiring a suitable mitigation scheme to be submitted for approval prior to occupation of the development, which the appellant has indicated would be acceptable to them.
27. It is appreciated that the Council holds that details should have been provided before any grant of planning permission, in accordance with policy DM19. However, the Framework⁴ and the Planning Practice Guidance⁵ indicate that it is appropriate to consider whether otherwise unacceptable development could be made acceptable through the use of a condition. In the particular

⁴ Paragraph 54

⁵ Paragraph: 001 Reference ID: 21a-001-20140306

circumstances, I am satisfied that this matter could be satisfactorily addressed by means of an appropriate condition.

Parking and highway safety

28. The Council recognises that the appeal site is in a sustainable town centre location and, given the extensive parking restrictions in the area, was prepared to accept the provision of 3 off-street parking spaces, although that number fell below its parking standards. However, the Council also submits that as an existing on-street parking bay, which it appears would accommodate one vehicle, would be lost as a result of the proposed parking spaces, it would increase pressure on on-street parking.
29. It is suggested by the Council that the scheme could be amended to avoid the loss of the on-street parking bay by sacrificing one or more of the off-street parking spaces. Given that this would reduce the off-street parking provision presumably taking it even further below the Council's parking standards' requirement, the logic of that suggestion is not entirely clear to me. The Council also advises that Chester Street public car park is within walking distance of the site.
30. I appreciate that there is a high demand for parking permits in the area and that the parking bay can be used by parking permit holders beyond North Street itself. However, given the above, I do not consider that the loss of one on-street parking space would be likely to have a material adverse effect on highway safety or the circulation of traffic in the area, as suggested by the Council, especially given that North Street is a cul-de-sac.
31. Therefore, the proposal would comply with CS policies CS20 and CS24 and SDPD policy DM12 which refer to the need for a balanced transport network, the application of maximum parking and cycle parking standards and the avoidance of a material detrimental impact on the functioning of the transport network. It would also be in accordance with paragraph 109 of the Framework.

Affordable housing

32. Policy DM6 of the SDPD requires a contribution from such schemes towards the provision of affordable housing within the Borough. However, it also provides that where proposals fall short of the policy target as a result of viability considerations, an open-book approach will be taken with the onus on the developer/landowner to clearly demonstrate the circumstances justifying a lower affordable housing contribution.
33. In this case, the appellant has submitted viability assessments to support its contention that a contribution towards affordable housing would not be appropriate. However, the Council has submitted alternative assessments which continue to hold that a contribution towards affordable housing is justifiable. Therefore, the matter is still in dispute between the parties. For reasons explained within the planning balance below, it is not necessary, in the circumstances of this appeal, for me to reach a conclusion on this issue.

Other Matters

34. The appellant suggests that the reduction in height of the existing single storey rear extension and the lowering of a boundary wall would improve access to light and the outlook for existing surrounding properties, including apartments

at 1 North Street. However, it is reasonable to suppose that the modern building at 1 North Street was considered acceptable within the present built context. It is also submitted by the appellant that there would be a benefit to air quality by removal of the of the kitchen extraction system, as a result of the proposed change of use, and that a vacant building would be brought back into productive use. However, whilst the restaurant is vacant, no evidence has been put to me to indicate that it could not continue in its current use. Therefore, I give those factors limited weight.

Planning Balance and Conclusion

35. The development would provide a net increase of 8 residential units at a sustainable location, contributing to the local housing supply. There would also be economic benefits during the construction phase, in terms of short term employment and the purchase of building materials and future occupiers would contribute to the local economy. Whilst those benefits have value they are relatively limited by the scale of the development.
36. I found that there would not be a significant effect on parking or an unacceptable impact on highway safety and that air quality concerns could be addressed by condition. Overall however, the identified harm to the character and appearance of the area and to the living conditions of future and neighbouring occupiers, leading to conflict with the development plan and the Framework, is decisive and outweighs the benefits.
37. Whether an affordable housing contribution is provided or not would not alter my decision, as sufficient harm has already been identified to justify dismissing the appeal and the benefit resulting from a contribution towards affordable housing would not outweigh that harm. Moreover, there is no legal mechanism before me to secure such a contribution. Therefore, it is not necessary to consider that aspect further.
38. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

JP Tudor

INSPECTOR