
Appeal Decision

Site visit made on 25 February 2020 by G Sibley MPLAN MRTPI

Decision by K Taylor BSc (Hons) PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th March 2020

Appeal Ref: APP/L2820/W/19/3241784

Land to the rear of 112 and 114 Mill Road, Kettering NN16 0RJ

- 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 Thomason against the decision of Kettering Borough Council.
 - The application Ref: KET/2019/0312, dated 8 May 2019, was refused by notice dated 27 September 2019.
 - The development proposed is described on the application form as: Demolition of single storey garage. Erection of 1no. 2-storey, 1-bedroom house and yard.
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Decision

1. The appeal is dismissed.

Appeal Procedure

2. The site visit was undertaken by an Appeal Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Procedural Matters

3. The appellant has submitted revised internal floor plans (Ref: 626.PL.001 Rev E), (Ref: 626.PL.002 Rev F) and a revised front elevation plan (Ref: 626.PL.201 Rev E). The plans were submitted with the appeal and the Council and third parties have had the opportunity to comment on them. The Council has said within their Statement of Case that the revised plans are acceptable and that they would be sufficient to resolve the main issue of the second refusal reason. The revised elevation plan would create an acceptable appearance because the proposed dwelling would have a similar appearance to the other terraced dwellings within the street scene. Because of this I agree that the revised plans would be sufficient to address the main concerns identified in the second refusal reason and I have accepted the revised plans.

Main Issue

4. The effect of the proposed development on the living conditions of the occupiers of No.112 and No.114 Mill Road with particular regard to whether the proposal would have an overbearing impact and whether it would lead to a loss of light.

Reasons for the Recommendation

5. The site is located on Harcourt Street and there is a single storey building on the site. No.112 and No.114 Mill Road are located on Mill Road to the north of

the site and the rear elevations of those dwellings face towards the site and the gardens for those dwellings are located between the buildings and the site. No.112 and No.114 are two storey dwellings and they both have two storey rear outriggers. The gardens for both dwellings are narrow and not very deep. The side elevation of the single storey building is located approximately 4 metres (m) from the rear of the outrigger projections of No.112 and No.114 and around 7m from the main rear elevation of the dwellings and there are a number of windows that face towards the site.

6. The existing outlook from the rear elevation of the dwellings is of the single storey building and the dwelling behind it. Because it is only a single storey building, the outlook is not completely enclosed by the building. The proposed dwelling would be the same distance away from the rear of the dwellings but would be approximately twice the height of the existing building. This would significantly increase the sense of enclosure when viewed from the rear windows of the two dwellings. This would be more keenly felt from No.112 because, from the rear outrigger, there would be a separation distance of around 4m between the two buildings. The rear roof slope of the proposed dwelling would be relatively steep, and, because of this, the dwelling would have a reduced roof height to the rear and would not appear as a full two storey dwelling when viewed from No.114. Nevertheless, because the gardens are relatively shallow, the combined height and appearance of the proposed dwelling would appear overbearing to the occupiers of the two dwellings when viewed from both inside and outside of the properties, albeit the proposal would have a greater impact upon the occupiers of No.112.
7. The Daylight and Sunlight Study (DSS) considered the effect the proposed dwelling would have upon the sunlight availability to the gardens for No.112 and No.114. The Building Research Establishment (BRE) recommends that at least 50% of the garden area should receive at least 2 hours of sunlight on 21 March and if a development results in a reduction of sunlight availability of less than 0.8 times its former value then the loss of light would likely be noticeable.
8. Appendix 2 of the DSS shows that the percentage area of the gardens receiving at least 2 hours of sunlight on 21 March is already below the BRE recommendation for both gardens, with 31% of No.112's garden receiving at least 2 hours of sunlight and only 28% of No.114's garden received at least 2 hours of sunlight. The DSS found that there would be a 31% (No.112) and 22% (No.114) reduction of the garden areas receiving at least two hours of sunlight on 21 March. For both gardens the proposal would reduce sunlight availability by less than 0.8 times its former value. The DSS notes that the existing gardens are already overshadowed and that the overshadowing caused by the proposal would be relatively small in absolute area terms. Nevertheless, because the current over shadowing already causes significant harm to the living conditions of the occupiers of those dwellings, any increase in overshadowing of the gardens would only worsen an already unacceptable situation.
9. Within the DSS, the appellant reaches the view that, given the dual aspect nature of the kitchen at No.112, the non-compliance with the BRE recommendations would be limited to the effect on the rear gardens at No.112 and No.114. However, even if I accepted that any effect on daylight and sunlight to the windows in these neighbouring dwellings was acceptable, this would not mitigate or outweigh the harm I have found.

10. Therefore, the proposed development, due to its scale and siting, would appear overbearing to the occupiers of No.112 and No.114 and would result in the reduction of sunlight availability to the gardens of No.112 and No.114 which are already significantly overshadowed. Consequently, the proposal would harm the living conditions of the occupiers of No.112 and No.114, contrary to the aims of policies 1 and 8 of the North Northamptonshire Joint Core Strategy 2011-2031 (2016) (CS) in so far as they seek to ensure development accords with the policies contained within the plan and requires development to protect the living conditions of the occupiers of neighbouring properties. The CS is part of the development plan and the policies within it are relevant in the determination of the appeal. There is no evidence that the policies which are most important for determining this proposal are out of date. These policies reflect the wording in the National Planning Policy Framework (the Framework) as they seek to promote sustainable development and ensure development proposals create places that have a high standard of amenity for existing and future users.

Conclusion and Recommendation

11. The proposal would provide a one-bedroom dwelling within a suitable location for residential development which would utilise previously developed land and the Framework does give substantial weight to the value of using suitable brownfield land within settlements for homes.¹ The proposed development would replace the existing unattractive single storey building with an attractive dwelling which would improve the appearance of the street scene.
12. The Council can identify a 5-year housing land supply of deliverable housing and no evidence is before me that contradicts this. Nonetheless, an additional dwelling would help the Council to maintain this supply, albeit the delivery of a single dwelling would only provide a modest addition to the supply.
13. Nevertheless, the scale and siting of the proposed dwelling would cause unacceptable harm to the living conditions of the occupiers of No.112 and No.114 Mill Road. The benefits of the proposal would not outweigh the conflict with the development plan, or the other harm identified. There are no material considerations that would lead me to a recommendation other than in accordance with the development plan in this instance. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be dismissed.

G Sibley

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and the Appeal Planning Officer's report, and, on that basis, I too agree that the appeal should be dismissed.

K Taylor

INSPECTOR

¹ Paragraph 118