



Appeal Decision

Site visit made on 1 June 2020.

by Tobias Gethin BA (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 June 2020

Appeal Ref: APP/U1105/W/20/3244536

8 Mill Street, Ottery St Mary EX11 1AD

- 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 Stuart Philips against the decision of East Devon District Council.
 - The application Ref 19/0488/FUL, dated 4 March 2019, was refused by notice dated 13 December 2019.
 - The development proposed is conversion of ground and 1st floors to 4no. apartments (Class Use A1 to Class C3).
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Philips against East Devon District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues are:
 - whether the living conditions of future occupiers of the proposed development would be sufficient, with particular regard to outlook and privacy for the ground-floor flat; and
 - the effect of the proposed development on the living conditions of adjoining occupiers, with particular regard to overlooking from ground-floor fenestration.

Reasons

Living conditions

4. The proposed ground-floor flat would have windows serving each of its habitable rooms. However, the proposed floor plans (Drawing No 7673-300 rev B, received by the Council on 28 October 2019) show that the bedroom windows would be fixed and obscured up to 1.7 metres and the small side window serving the lounge/kitchen would be entirely fixed and obscured. These windows would therefore provide no or very limited outlook.
5. The lounge/kitchen in the proposed ground-floor flat would have another window which is not shown to be obscured, and there would be rooflights in this room and the bedrooms. The rooflights would provide additional natural

light, while their angle means that any overlooking into habitable rooms in the ground-floor flat from the first-floor fenestration in adjoining properties would be limited and restricted to oblique angles. However, their height above floor level and angle mean that the rooflights would provide negligible outlook. Consequently, although the bedrooms in the ground-floor would be sufficiently private, they would have limited outlook. It seems to me that this would result in a rather bleak and grim internal living environment for the flat as a whole.

6. For the above reasons, I conclude that the living conditions of future occupiers of the proposed development would be insufficient, with particular regard to outlook for the ground-floor flat. I therefore find that it conflicts with Policy D1 of the East Devon Local Plan 2013 to 2031 (EDLP). Amongst other aspects, this sets out that proposals will only be permitted where they do not adversely affect the amenity of occupants of future residential properties. The proposal would also be inconsistent with the provisions in the National Planning Policy Framework (Framework) in relation to achieving a high standard of amenity for future users.

Adjoining occupiers

7. There would be several ground-floor windows in the proposed development that would be in close proximity and face towards adjoining properties and the relatively narrow courtyard area which runs parallel to the site. The courtyard provides access to those properties and is used by existing residents as outdoor amenity space.
8. The provision of ground-floor side windows could therefore result in significant overlooking of adjoining occupiers, particularly given the close spatial relationship between the site, the courtyard and existing properties. However, the proposed fixing shut and obscuring of the ground-floor side windows would prevent significant overlooking and thus avoid adjoining occupiers from suffering an unacceptable loss of privacy. Given their angle and height, there would also be limited overlooking via the proposed ground-floor rooflights.
9. For the above reasons, I conclude that the proposed development would not harm the living conditions of adjoining occupiers, with particular regard to overlooking from ground-floor fenestration. I therefore find that it accords with EDLP Policy D1 in relation to avoiding adversely affecting the amenity of adjoining occupiers. The proposal would also be consistent with the provisions in the Framework in relation to achieving a high standard of amenity for existing users.

Other matters

10. Although the existing business use at the front of the site would remain, it has been put to me that the continued use of the remainder of the site as storage space would not be viable. It has been suggested that alternative viable business use options of the space would be for an A Class use which would also create greater intensity of use and overlooking compared to the appeal proposal. Be that as it may, I have little substantive evidence which indicates that this is anything more than a theoretical scenario and that such uses would inevitably lead to harm. I therefore attach limited weight to this and have determined the appeal on its own merits, based on the evidence before me.

11. The Council considers that the design and appearance of the proposed development and its impact on the character, appearance and significance of the Ottery St Mary Conservation Area is acceptable. Having considered the development and visited the site, I concur and find that the development would preserve the character and appearance of the designated heritage asset.
12. The proximity of the appeal site to the Pebblebed Heath European designated nature conservation site means that the proposed development would, in combination with other plans and projects, be likely to have a significant effect on the internationally important interest features of the Heath. Mitigation measures are therefore required to make the development acceptable and avoid an adverse effect on the integrity of the designated site. However, as I am dismissing the appeal for other reasons, I am not pursuing this matter further because it could not lead me to a different decision.

Planning Balance

13. The remaining commercial use on the site would maintain the character and vitality of the town centre, the proposed appearance and design of the development would be acceptable, and sufficient cycle storage would be provided. The Council has not contested the principle of residential development on the site and I note that it has granted permission for, amongst other aspects, conversion of the upper floors of the building to residential use. The proposed development has been amended from the previous scheme that was refused by the Council and was subsequently dismissed at appeal. The evidence before me indicates that this appeal proposal includes fewer units over the same area of floor space, with each unit equalling or exceeding the National Standards. In an attempt to address Council Officers' concerns regarding overlooking and amenity, the appellant has also made other amendments, including in relation to fenestration and the inclusion of additional rooflights.
14. However, while I have found that the proposed development would not harm the living conditions of adjoining occupiers, the limited outlook for the ground-floor flat would mean that the living conditions of future occupiers of the proposed development would be insufficient. This weighs against the proposal, and I have little substantive evidence that the Council has not got a sufficient supply of housing land and that the appeal proposal is needed to ensure the Council meets identified housing demand. Consequently, I find that the benefits of providing additional accommodation in an accessible location within the built up area boundary and town centre of Ottery St Mary – and which it is asserted would provide affordably priced accommodation for local young people – do not provide justification for development which would provide sub-standard living conditions and which conflicts with the development plan.

Conclusion

15. For the above reasons, the appeal is dismissed.

Tobias Gethin

INSPECTOR