
Appeal Decision

Site visit made on 22 June 2020

by S A Schinaia MSc EngD FGS

an Inspector appointed by the Secretary of State

Decision date: 24th August 2020

Appeal Ref: APP/V2635/W/19/3240305

16 Church Street, King's Lynn PE30 5EB

- 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 L. Loades (Rounce & Evans) against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 19/00943/F, dated 24 May 2019, was refused by notice dated 17 October 2019.
 - The development proposed is described as 'Adjustment of window opening to form door access onto flat roof with glass balustrade'.
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Decision

1. The appeal is allowed and planning permission is granted for the adjustment of window opening to form door access onto flat roof with glass balustrade at 16 Church Street, King's Lynn PE30 5EB, in accordance with the terms of the application, Ref 19/00943/F, dated 24 May 2019, subject to the following conditions:
 - i) The development hereby permitted shall be begun within three years from the date of this decision.
 - ii) The development hereby permitted shall be carried out in strict accordance with the following approved plans: 3/227/2B.
 - iii) Notwithstanding condition [ii] no development shall take place until details of the balustrade have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
 - iv) Prior to the commencement of any construction works, details of any materials to be used in the external construction of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Thereafter only the approved materials shall be used and permanently retained.

Main Issue

2. The main issue is the effect of the proposed development on the living conditions of the occupiers of 15 Church Street, having regard to privacy.

Reasons

3. The proposed development is the opening of a door where currently is a window to access a flat roof at the rear of the appeal property at 16 Church Street and, thus, create a roof terrace. The owner of the current offices would use the proposed roof terrace as a recreational outdoor amenity space. The

proposal would include the installation of a glass balustrade for the safe use of the roof terrace. According to the appellant, the southern side of the balustrade would have a higher glass screen with obscured glazing to protect the rear of the property at 17 Church Street from overlooking. During the site visit, I could verify that the southern side of the balustrade would not result in an overshadowing or an overbearing effect on the rear garden of 17 Church Street.

4. On its northern side, the flat roof is adjacent to a window that serves a staircase landing area within the neighbouring property at 15 Church Street. Given the close proximity of the neighbour's window with the appeal property, the use of the terrace roof would inevitably result in overlooking into the neighbouring dwelling.
5. However, during the site visit I could verify that the window is secondary and serving a non-habitable staircase landing area used by the residents as a passage to access other rooms. It is not possible to see through the window inside those rooms and, therefore, the harm to the privacy of the neighbouring occupiers would be very limited. Furthermore, the appeal property has a business use and therefore the roof terrace would be expected to have a low-level use mainly limited to business opening times. There is no evidence to suggest that the terrace would be used at other times.
6. I have considered the comments of the current owners and occupiers of 15 Church Street, who agree with the proposal and would prefer to keep their window unobscured at this time; they also do not wish to have any external balustrade or screen erected in front of their window. The occupiers of 15 Church Street use curtains on their window to shade the interiors from direct sunlight. Mitigation measures, such as obscure glazing and one-way glass film, could be eventually taken at later stage if deemed necessary by future occupiers of the property.
7. Therefore, I consider that the proposed development would not result in a significant adverse impact on the living conditions of occupiers of 15 Church Street in respect of privacy. As such, the proposal would not conflict with Policy DM 15 of the Site Allocations and Development Management Policies Plan (2016) of the King's Lynn and West Norfolk Borough Council, which aims to protect the living conditions of occupiers of neighbouring properties among other matters. Likewise, the proposed development would be sustainable development and, therefore, it would comply with Policy CS08 of the Core Strategy (2011) of the Council on sustainable development and with the provisions of paragraph 127 of the National Planning Policy Framework (2019), which among other matters aims for the creation of places with a high standard of amenity for current and future users.

Other Matters

8. The appeal property is an important unlisted heritage asset within the Conservation Area of King's Lynn and, according to the Council and the relevant map, it is adjacent to a Grade II* listed building to the south and another important unlisted building to the north. The appeal site also backs onto the Grade I listed Minster. As the proposed development cannot be seen from any public area, it would preserve the character and appearance of the Conservation Area and the surrounding heritage assets. According to the appellant's communication to the Council, the balustrade would not be attached

to 17 Church Street and therefore the proposal would not harm the listed building.

Conditions

9. Conditions are attached in the interest of certainty and proper planning. Specific details of the balustrade with obscure glazing on the side adjacent to 17 Church Street were only included in a drawing of the appellant's statement of case; therefore, I have included a condition for the approval by the Council of the details of the balustrade. Since the appeal site is within a Conservation Area and surrounded by heritage assets, I have attached a condition relating to the materials to be used in the proposed development in order to preserve the character and appearance of the building and the Conservation Area.

Conclusion

10. For the reasons set out above, I conclude that the appeal should be allowed.

S A Schinaia

INSPECTOR