
Appeal Decision

Site visit made on 5 January 2021

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2021

Appeal Ref: APP/L2820/W/20/3255056

**Land adjacent to Prince of Wales Public House, Jobs Yard, Kettering
NN16 0BS**

- 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 Fielding on behalf of Michigan Construction Ltd against the decision of Kettering Borough Council.
 - The application Ref KET/2019/0908, dated 18 December 2019, was refused by notice dated 9 March 2020.
 - The development proposed is 9 no. apartments.
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Decision

1. The appeal is allowed, and planning permission is granted for 9 no. apartments at land adjacent to Prince of Wales Public House, Jobs Yard, Kettering NN16 0BS, in accordance with the terms of the application Ref KET/2019/0908, dated 18 December 2019, subject to the following conditions:
 1. The development hereby permitted shall be begun not later than the expiration of three years from the date of this permission.
 2. The development hereby permitted shall be carried out in accordance with the following plans dated 17 January 2020: (SK)000A, (SK)001A, (SK)002A, (SK)003A, (SK)004A, (SK)005A, (SK)006A, (SK)007A, (SK)008A, (SK)009A, (SK)010A, (SK)011A and (SK)012A.
 3. Prior to the first occupation of the development, a report demonstrating that the noise levels outlined in BS8223:2014 with regard to the residential units have been met, along with any measures necessary to ensure that these levels are thereafter met in perpetuity, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter retain all the identified measures for the lifetime of the development.
 4. Prior to the first occupation of the development hereby approved, refuse storage and collection and cycle storage facilities shall be made available for use. The refuse storage area shall be in a separate room not connected to any habitable area. These facilities shall always be retained thereafter.

Procedural Matters

2. The date cited on the planning application form has been used for the purposes of the banner heading and paragraph 1 above as that was the date cited by the appellant.
3. For the same purposes I have omitted superfluous text contained within the description of development cited, as it merely repeats the address of the appeal site.

Main Issues

4. The main issues are the effect of the appeal proposal on:
 - the character and appearance of the area, including the setting of the Kettering Conservation Area, with particular regard to scale, mass and design; and
 - the living conditions of neighbouring residents, with particular regard to levels of outlook and privacy.

Reasons

Character and appearance

5. The commercial uses within this town centre are interspersed with residential developments, including more recent large scale flatted developments. The mixture of building styles, widths, heights and design details in the area provide for a varied character. There are a number of more recent traditional and contemporary designed developments within the vicinity of the appeal site. Overall, there is consistency in terms of materials and vertical proportions in the area.
6. The appeal site enjoys a more secluded position, served by a side lane off one of the main thoroughfares through the town centre. This lane has an intimate character. This is because of its narrowness, the positioning of properties at the edge of the public footway and also the large scale of existing surrounding buildings. Consequently, only glimpses of the appeal site can be caught from the surrounding streets. Key views of the appeal site are from shorter range vantage points within the lane.
7. The appellant has drawn attention to a previous planning permission in respect to the appeal site. Sufficient similarities between the 2 schemes have been evidenced. Construction work was evident at the appeal site. The Council has not disputed that the previous permission is extant. The evidence does not indicate that there would not be a real prospect that the permitted scheme would ensue. Therefore, necessarily I have regard to that fallback scheme in my examination of this matter.
8. The submitted evidence demonstrates that despite the addition of a fourth floor, the overall scale and mass of the appeal proposal would not be significantly different to that previously approved scheme, particularly when viewed from street level.
9. Moreover, the neighbouring Jobs Court provides an immediate large scale flatted context to the appeal site. By virtue of their heights and extent of built frontage, the existing buildings in this part of the lane provide a strong sense

of enclosure on both sides of this street scene. This underpins the intimacy that is characteristic of this part of the town centre.

10. Although the appeal proposal would further enclose the street scene, the resulting level of enclosure would not be dissimilar to that which would result from the extant scheme. However, regardless of the fallback position advanced, by virtue of its scale and mass, the appeal proposal would reflect that sense of enclosure which defines the area's character and appearance in its own right.
11. The proposed stepping of the appeal proposal would assist in breaking up the expanse of the appeal proposal at upper floor level. It would not be unduly prevalent upon approach from High Street. This is because of the positioning of the appeal proposal relative to the adjacent public house and the narrowness of the lane. The resulting side elevation and stepping of the front elevation would be more evident from approach along the lane towards High Street. However, the proposed green wall would provide both relief and interest to that elevation.
12. In terms of design, the neighbouring Jobs Court provides an immediate contemporary visual context for the appeal proposal. The appeal scheme differs in its design approach and subsequent appearance to that of the approved scheme and also other buildings on that side of the lane. Nonetheless, the contemporary design, vertical proportions, materials and roof form the appeal proposal would not be jarring with its context and would contribute positively to an appropriate grouping of contemporary buildings in this part of the town centre.
13. For all of these reasons, and irrespective of the fallback position advanced, the appeal scheme would not be unduly domineering or unsympathetic to the street scene in terms of its mass, scale and design. Neither would it represent overdevelopment of the site. There would be no conflict with the National Planning Policy Framework (the Framework) in this regard.
14. The appeal site falls within a small area of the town centre, which is encircled by the Kettering Conservation Area and, as such, it forms part of its setting. The significance of that designated heritage asset is both architectural and historic.
15. The juxtaposition of the site with the surrounding buildings makes it a relatively secluded and well-contained part of the town centre. For the reasons given, the positioning, scale and appearance of the appeal proposal would not undermine the intimate character and appearance of this subservient street which contributes to the setting of this designated heritage asset.
16. The propose building would not interrupt primary views into or out of the Conservation Area. These are already masked by surrounding larger scale buildings or comprise of secondary frontages and service areas which do not contribute positively to the significance of that designated heritage asset.
17. Consequently, the appeal proposal would not cause harm to the significance of this designated heritage asset. In the absence of such harm, the appeal proposal would conserve its character and appearance. There would be no conflict with the Framework in this regard.

18. For these reasons, I find that the appeal proposal would not harm the character and appearance of the area, including the setting of the Kettering Conservation Area, with particular regard to scale, mass and design.
19. Policy 2 of the North Northampton Joint Core Strategy 2011-2031 (the Core Strategy) states amongst other things that the distinctive North Northamptonshire historic environment will be protected and preserved. Proposals should demonstrate an appreciation and understanding of the impact of development on heritage assets and their setting in order to minimise harm to these.
20. Furthermore, Policy 8 of the Core Strategy states amongst other things that development should create a distinctive local character by responding to the site's immediate and wider context and drawing on the best of local character without stifling innovation.
21. In the absence of harm, there is no conflict with those policies.
22. The appeal proposal would incur no harm to the setting of the Conservation Area and as such would preserve the character and appearance of this designated heritage asset.

Living conditions

23. The appeal proposal would introduce a number of windows at ground and upper floor levels that would face directly onto neighbouring residential units. Although such a relationship is characteristic of the wider area, this would have the potential to reduce existing levels of privacy.
24. I have already found the appeal scheme proposed would not be significantly different to that of the fallback position advanced and that it has a reasonable prospect of occurring. Therefore, necessarily I have had regard to that scheme in my examination of this matter.
25. The appeal proposal would introduce a built elevation directly opposite and within proximity of a fenestrated elevation of an existing apartment block. By virtue of its design, width and height, it has been evidenced that the appeal proposal would be of a similar scale to the fallback position advanced. Consequently, the appeal scheme would not result in more harm than the fallback position in terms of outlook for those existing residents.
26. Similarly, the submitted evidence does not lead me to dispute the assessment of the effect that the appeal proposal would have on the light levels to those existing facing flats.
27. The appeal scheme would present a greater number of windows as a consequence of the additional storey proposed than the fallback position. Nonetheless, in comparison to the permitted scheme, a greater distance between the appeal proposal and the facing elevations of Jobs Court would result at upper floor level. Furthermore, albeit there would be an additional floor, the proposed windows would be similarly positioned and narrower in size, which would reduce the degree of visibility from them.
28. Collectively, despite the increase in the number of windows, I find that these particular credentials of the appeal scheme would not result in any more harm

than the fallback position in terms of the levels of privacy. There would be no conflict with the Framework in relation to this main issue.

29. For these reasons, I find that the appeal proposal would not result in unacceptable harm to the living conditions of neighbouring residents, with particular regard to levels of outlook and privacy.
30. Policy 8 of the Core Strategy states that development should amongst other things protect amenity by not resulting in an unacceptable impact on the amenities of future occupiers and neighbouring properties by reason of loss of light or overlooking. In view of my findings, there is no conflict with that policy.

Other Matter

31. In view of the town centre location the Council has assessed the proposed absence of car parking as acceptable and from the evidence before me, I have no reason to disagree with that stance.

Conditions

32. In addition to the standard time limit setting out the timescales for commencement of development, it would be necessary to impose a planning condition requiring compliance with the approved plans in the interests of certainty and to safeguard the character and appearance of the area.
33. Given the appeal site is located within a mixed use area, it would be both necessary and reasonable to impose a planning condition to ensure that future occupants are not subjected to an unreasonable level of noise and disturbance internally. This would be in the interests of safeguarding living conditions and the continued operation of neighbouring commercial uses.
34. Furthermore, a planning condition to control refuse storage is deemed both necessary and reasonable in the interests of safeguarding living conditions of residents and the character and appearance of the area.

Conclusion

35. I have found that the appeal proposal would not be harmful to the character and appearance of the area, including the setting of the nearby Conservation Area. Furthermore, the appeal proposal would not impose any greater harm to the living conditions of neighbouring residential properties than the fallback position that would be unacceptable. Consequently, there would be no conflicts with the development plan in these regards. There are no other matters before me that would indicate that the appeal should not succeed.
36. For the reasons given, the appeal should be allowed, subject to the specified conditions.

C Dillon

INSPECTOR