

Appeal Decision

Site visit made on 25 January 2021

by David Spencer BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 February 2021

Appeal Ref: APP/G2625/W/20/3260213

31 Kensington Place, Norwich NR1 3JE

- 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 Robinson against the decision of Norwich City Council.
 - The application Ref 20/00322/F, dated 8 March 2020, was refused by notice dated 1 May 2020.
 - The development proposed is residential development of 5 flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in the appeal are firstly, the effect of the proposal on the character and appearance of the surrounding area, and secondly, whether the proposed development would provide acceptable living conditions for future occupiers in terms of the quality of habitable space and provision of external amenity space and the effect of the proposed development on the living conditions of nearby residents with particular reference to outlook.

Reasons

Character and Appearance

3. The appeal site currently comprises a plain, modest single storey brick building with a tiled pitched roof. It is to the rear of generally two-storey buildings on Queens Road and City Road but fronts onto the short back street of Kensington Place where there is a four-storey block of maisonette flats immediately to the south of the appeal site. There is variation in the scale, massing and form of buildings in the immediate context of the appeal site, including numerous examples of flat roofs such as the prominent three storey stairwell elements serving the maisonette flats. The remainder of the appeal site comprises a small yard area which is also to the rear of various other buildings in mainly commercial and retail use, with some ancillary residential at upper floor levels.
4. The three-storey scale of the appeal proposal would be tempered by the relatively shallow pitch and height of the proposed roof form such that the proposed building would not be significantly higher than the nearby buildings on City Road to the east. It would also have an appropriate relationship in scale and height to the buildings on Queens Road to the north. It would remain appreciably lower than the four storey maisonettes to the south. There would be a noticeable step down to the adjoining single storey building to the west but as described above there is a reasonable degree in variation in the scale

and massing of buildings here such that the change in building heights would not be harmful. The appeal proposal would represent an appreciable improvement in the appearance of the appeal site, bringing some desirable design variety and vibrancy into what is generally, a moribund backland area.

5. The proposed flat roof element at the rear of the building would correspond with numerous examples of flat roofs in this part of Norwich. Whilst I accept the juxtaposition with the eaves height of the pitched element would appear awkward, the overall appearance would not be uncharacteristic. The proposed flat roof element would be only glimpsed in limited views to the west in Kensington Place or from surrounding buildings. It would not be a particularly prominent aspect of the building. Nor in the context of the scale of surrounding flat roofs would it represent a significant expanse of this roof form. In many respects the appeal building would echo the form of the maisonette flats directly opposite which have a slack pitched roof to the main element and sizeable flat roof additions for the stairwells.
6. The appeal site is within the setting of the Bracondale Conservation Area (BCA) and close to the Norwich City Centre Conservation Area. Given the adjoining Rose Inn is within the BCA I am required to exercise the general duty at Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The appeal proposal would make an appropriately efficient use of land in a way that would maintain the area's prevailing character and enhance its appearance. There would be no heritage harm to the setting of the BCA. The LPA refers to locally listed buildings to the north on Queens Road. I have few details on this but because the appeal site abuts the less formal and much cluttered rear elevations and yards of these properties, I find there would be no detrimental impact on the heritage significance of these buildings.
7. I therefore conclude that there would be no significant harm to the character and appearance of the area. The proposal would therefore accord with Policy 2 of the Broadland, Norwich and South Norfolk Joint Core Strategy 2014 and Policies DM3 and DM12 of the Norwich Local Plan Development Management Policies Plan 2014 (the DMPD). These policies require development proposals, amongst other things, to appropriately respond to local context, maintain a strong sense of place and add to the overall quality of the area. The appeal proposal would also accord with the relevant design objectives of the National Planning Policy Framework (NPPF) at paragraphs 122, 127 and 130.

Living Conditions

8. The appeal proposal would provide a ground floor two bedroom flat and four single bedroom flats on the upper floors. Generally, the proposed flats would provide an acceptable level of internal floorspace. However, the quality of habitable spaces and access to amenity space in respect of living conditions and wellbeing is also important for all new residential developments. Due to the constricted nature of the appeal site, the proximity of adjoining buildings and the need to mitigate for noise from adjacent commercial uses, including hot food premises, the layout and positioning of proposed openings, and amenity space, reflects these circumstances.
9. Turning first to matters of natural ventilation and outlook. There would be no issue with the front flats at first and second floors which have windows on the south elevation. In respect of the two rear flats at first and second floor (units 3 and 5) because of their height and the current openness over the large single

storey flat roof to the west there would be no issue with outlook or natural ventilation in the proposed bedrooms. Matters are, however, more complex in respect of the main open plan living space of these units. The proposed windows on the north elevation would be too high and small to provide a meaningful outlook and appear likely to have remain closed to avoid harm from noise from adjacent commercial kitchen extraction¹. Whilst there are larger windows on the eastern elevation of these habitable rooms, they would nonetheless face directly towards, at close quarters, openings on the rear of buildings on City Road and a first-floor terrace area at the rear of the Rose Inn. Consequently, there would be restrictions in terms of natural ventilation and outlook from these east facing windows which would harmfully compromise the habitability of these main living spaces.

10. In the ground floor flat, the proposed bedrooms would have south facing windows directly onto the adjoining footway on Kensington Place. The conflict with the need for privacy in these rooms would unacceptably interfere with the only opportunity for natural ventilation, daylight and outlook. Accordingly, these would be oppressive rooms which should be capable of occupation not just for sleeping but for study, home-working and quiet relaxation.
11. The main open plan living area of the ground floor flat has two openings, generally to the north, onto a narrow amenity space such that the predominant outlook would be directly towards the imposing blank elevations of adjoining buildings. It would be a dismal outlook for the main habitable space, also resulting in poor natural ventilation and light levels. The result would be a somewhat gloomy main living space. A small side window would have an outlook onto an adjoining yard to the east which is beyond the red line of the application. For privacy and outlook reasons this window would only make a very limited contribution to ventilation and light levels in the main habitable space of this flat, insufficient to overcome my concerns.
12. Turning to amenity space, the development plan requires at DMPD Policy DM2 that provision must be made for external amenity space as an integral part of housing developments. More specifically, DMPD Policy DM13 applies to flats, such as the appeal proposal, and requires a satisfactory standard of amenity space for all residents, including as a minimum, areas for drying clothes.
13. The one bedroom flats at first and second floors would be served by a single, very shallow, Juliet balcony per dwelling. This would not be amenity space and would be generally insufficient for drying clothes, particularly for small flats that just about meet the required internal space standards. The scale and quality of the proposed private amenity space for the ground floor flat would be very limited, being extensively enclosed by surrounding buildings, including the proposed 3 storey appeal building. It would be a particularly gloomy and poor-quality environment insufficient for meaningful relaxation or children's play. It would also be exposed to the noise and odours of adjoining commercial premises, further limiting its usability. Due to the very shady aspect of this space it would be largely ineffective for drying clothes. Overall, the appeal proposal would provide a negligible and poor quality of amenity space for future occupants.
14. There is little dispute that there are nearby areas of open space within walking distance of the site but this would not be a meaningful substitute for having a

¹ Table 9, Environmental Noise Assessment Report (document ATL/20/0209)

moderate level of onsite private amenity space sufficient for drying clothes and for wider health benefits such as growing a few plants or for simply sitting outside. DMPD Policy DM2 recognises that in accommodating high density housing within the city there will need to be some flexibility. However, the appeal proposal is not converting an existing building. Whilst the proposal would improve the appearance of the area it would not amount to a regeneration scheme of such overriding benefits that future occupants should be subjected to very poor standards of external amenity space provision.

15. In respect of the living conditions of nearby residents, the appeal proposal would be sufficiently distant and scaled so as not to harmfully overshadow or dominate the outlook of openings or amenity spaces of dwellings to the north, south or west. This includes those at the maisonettes to the south, which would be separated from the appeal scheme by the reasonable width of Kensington Place. Immediately to the east of the appeal site are first floor flats on City Road which have a balcony facing directly onto the appeal site. The outlook from this balcony area is currently extensively interrupted by the immediately adjacent pitch and ridge height of the roof to the building on the appeal site. Whilst the appeal proposal would be taller, it would be moderately set-back by an intervening single storey element containing part of the proposed bin and bike store. On this basis the appeal proposal would not result in a significant harm to the outlook from this balcony.
16. Whilst I have not found significant harm to the outlook of occupiers of nearby dwellings and that some of the proposed flats would have acceptable levels of outlook, natural ventilation and daylight, I nonetheless find significant harm would arise for the living conditions of future occupiers in respect of private amenity space provision and levels of natural ventilation, daylight and outlook in the proposed ground floor flat and proposed units 3 and 5. In failing to provide a high standard of amenity on this basis the appeal proposal would be contrary to DMPD Policies DM2 and DM13 and to paragraph 127(f) of the NPPF.

Planning Balance and Conclusions

17. Whilst I have found there would be no significant harm to the character and appearance of the area or to the amenities of nearby residents in terms of outlook and that some of the proposed flats would have acceptable natural ventilation, daylight and outlook in habitable rooms, this would not outweigh the significant harm to the living conditions identified. This includes those of all future occupiers in respect of amenity space provision and also the living conditions of occupiers of the ground floor flat and proposed units 3 and 5 in terms of natural ventilation, daylight and outlook in habitable rooms. The level of harm identified would be of sufficient significance to outweigh the conclusions of a lack of harm on the other main issues in this appeal. The degree of harm identified would be contrary to the development plan and NPPF on the fundamental principle that, planning and development processes should achieve a high standard of amenity for future users.
18. In weighing-up other factors associated with the appeal scheme, I am not persuaded that the delivery of 5 additional homes on a previously-used site in a highly sustainable location would amount to material considerations of sufficient weight to indicate a decision contrary to those development plan policies which are most important for a main issue in this case.

19. I have taken into account all other matters raised, including the appellants efforts to resolve previous concerns of the LPA on earlier schemes, but there is nothing to lead me to a conclusion other than that the appeal should be dismissed for the reasons given.

David Spencer

Inspector.