



Appeal Decision

Hearing Held on 25 May 2021

Site visit made on 15 June 2021

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 August 2021

Appeal Ref: APP/L2820/W/21/3269021
16-18a Horse Market, Kettering NN16 0DQ

- 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 Kettering Cultural Quarter Limited against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The application Ref KET/2020/0586, dated 24 August 2020.
 - The development proposed is mixed use development consisting of ground floor commercial unit (A1/A2/B1) and 28 self-contained flats.
-

Decision

1. The appeal is dismissed.

Preliminary Matter

2. Since the appeal was lodged a revised version of the National Planning Policy Framework, 2021 ('the Framework, 2021') has been released, the main parties have been consulted on this and I have taken this into account where relevant to my Decision.
3. A Unilateral Undertaking ('UU') dated 25 May 2021 and made under Section 106 of the Town and Country Planning Act 1990 (as amended) was submitted by the appellant after the Hearing. I shall return to this undertaking later.

Background and Main Issues

4. Although there is no formal decision from the Council, it has considered the proposal and indicated that had it been in a position to determine the application it would have refused permission. Mindful of the Council's putative reasons for refusal, the main issues are:
 - a) The effect of the proposed development on highway safety; and,
 - b) whether the proposal makes acceptable provision for the transfer of land required for highway improvements.

Reasons

Highway safety

5. The proposed vehicular egress would be from the building's under-croft parking area onto Queen Street. Despite the Council's plans to facilitate two-way traffic

along this road, I have no detailed drawing showing the final arrangement for this. Therefore, I have determined the appeal on the basis of the present highway arrangement.

6. Vehicular traffic outside the location of the proposed egress, travels one way, east to west towards Horse Market. Drivers travelling along this part of the road are generally reducing speeds as they approach the traffic-light controlled junction with Horse Market. This section of the highway is also relatively straight, and the building would be set back from it. Therefore, drivers leaving the proposed egress would have sufficient sight of vehicles approaching from the east. The egress would also be about 7m wide, enabling drivers to see pedestrians emerging from either side of it.
7. To prevent vehicles entering the proposed car park from Queen Street, 'Alligator Teeth' are to be installed along the egress. This physical feature combined with the modest size of the car park would mean that drivers of vehicles leaving this would do so cautiously and at low speeds. Also, the car parking area would accommodate a modest number of vehicles (8). This, together with the town centre location of the appeal site and its good accessibility to a range of facilities including public transport, means that the activity associated with the car park and its egress is likely to be limited.
8. In light of the above site-specific circumstances, whilst the required pedestrian and vehicular visibility splays have not been shown, the proposed egress arrangement would not unacceptably compromise the safety of pedestrians and vehicles using the highway. Consequently, the proposal would not conflict with the overarching highway safety aims of Policy 8(b) of the North Northamptonshire Joint Core Strategy 2011-2031 adopted in 2016 ('JCS').

Land for highway improvements

9. The proposed building would be set back from the junction of Queen Street and Horse Market to provide sufficient land for the Council's planned improvements along Queens Street to accommodate two-way traffic. The appellant has agreed to convey this land to the Council for this purpose.
10. Moreover, the proposed highway improvement is one of a number of key road and junction improvements identified under Policy 7 of the of the Kettering Town Centre Action Plan 2001-2021 ('AP') which also states that developer contributions will be sought towards these improvements.
11. At the Hearing I was referred to the Kettering Town Transport Strategy, January 2015, which also identifies highway improvements along Queen Street. The Council's representative confirmed that some of the road improvements had been undertaken and others were dependant on land availability. I am also mindful that the proposal would result in some increase in vehicular and pedestrian activity in the area.
12. For the above reasons, the provision of land for highway improvements meets the tests laid out at Paragraph 57 of the Framework, 2021 and set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and therefore is appropriate.
13. The mechanism intended to secure the transfer of land for highway improvements is the submitted UU. However, whilst some details including a Title Number have been provided from HM Land Registry, there is no

accompanying plan showing the extent of land ownership to which these relate to. Furthermore, although the 'Schedule' to the UU sets out the developer's obligation to transfer to the Council the land edged blue in the attached plan, on the attached plan this is not edged blue. More significantly, there is no trigger or date for when the land transfer would take place. Drawing on these reasons, I cannot be certain of the effectiveness of the UU to ensure the timely transfer of land required for highway improvements. As such, I find conflict with Policy 10 of the JCS which supports the timely delivery of infrastructure, services, and facilities necessary to meet the needs arising from the development.

Other Matters

14. The redevelopment of the appeal site is supported by both the AP and the 'Kettering Conservation Area' appraisal document. This would also contribute to regeneration and improve the quality of the area.
15. The development would also contribute 28 residential units within an accessible, brownfield location towards the Council's housing supply. As such, there would be social, economic, and environmental benefits arising from the proposal. However, these do not overcome the need for the development to support the delivery of infrastructure necessary to meet the needs arising from the development.

Conclusion

16. I have found that that the proposal would not harm highway safety. However, it fails to secure the timely transfer of land required for highway improvements. For this reason and conflict with the development plan, I conclude that the appeal is dismissed, and planning permission refused.

M Aqbal
INSPECTOR

APPEARANCES

FOR THE APPELLANT

Mr Adekoyejo Odunaiya

FOR THE LOCAL PLANNING AUTHORITY

Mr Richard Marlow

DOCUMENTS SUBMITTED AFTER THE HEARING

Unilateral Undertaking dated 25 May 2021

Kettering Town Centre Transport Strategy, April 2011

Kettering Town Centre Transport Strategy, January 2015

Kettering Conservation Area (As revised 30 March 2007)