



Appeal Decision

Site visit made on 4 July 2022

by B Plenty BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 July 2022

Appeal Ref: APP/W2845/W/22/3290501

Car park, r/o Hazelwood Road, Northampton NN1 1LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission
 - The appeal is made by Mr A Burt against West Northamptonshire Council.
 - The application Ref WNN/2021/0692, is dated 19 August 2021.
 - The development proposed is Construction of 8 No New One bedroom flats on existing car park site.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A recent appeal¹ was dismissed on the site for 12 flats. This found that the scheme would not preserve the character and appearance of the conservation area, would harm the living conditions of future and neighbouring occupiers and would have a poor parking arrangement. Although the details of the previous scheme are not before me, I understand that it had a frontage that addressed the rear of 'Mapel House' and was of greater mass. Although materially different in scale and form, I shall pay regard to this where relevant.

Background and Main Issues

3. The application was not determined by the Council within the statutorily prescribed 8-week timeframe. As such, following the submission of an appeal it falls to me to determine whether planning permission should be given. In consideration of the Council's Statement of Case, and the evidence before me, the main issues in dispute are:
 - Whether the proposed scheme would preserve or enhance the character or appearance of the Derngate Conservation Area (DCA);
 - The effect of the proposed development on the living conditions of neighbouring occupiers of 21-29 Hazelwood Road (No's 21-29), with particular regard to outlook, daylight and sunlight;
 - The effect of the proposal on the living conditions of future occupiers with respect to privacy and security; and
 - The effect of the proposal on pedestrian and highway safety.

¹ Planning Appeal Reference: APP/V2825/W/21/3272339

Reasons

Character and appearance

4. The appeal site is within an urban setting. It is surrounded by buildings that address neighbouring roads and that are predominately tall with features that emphasise their verticality. The local area consists of buildings of various styles, the majority being three storey terraced buildings of traditional form. Many of these include rear returns that are recessive in scale and form. Although largely unremarkable, the site provides a sense of spaciousness between existing development, maintaining a separation of built form. The site is currently used as a 'pay and display' car park and utilitarian in form. Due to its discrete location the site makes a neutral contribution to the character and appearance of the area.
5. The site is within the DCA. My statutory duty², requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, paragraph 199 of the Framework requires great weight to be given to an asset's conservation when considering the impact of the proposal on its significance. The DCA is the historic core of the town centre. It includes the retail and cultural quarters of the town with buildings that are a variety of styles and scales. The predominant character consists of a terraced built form, and sense of enclosure this creates, with buildings built back of footway forming a strong urban character. The significance of the DCA derives from its medieval origins, largely coherent form of its buildings, their inter-relationship and the space between them.
6. The proposal has been revised following the previous appeal decision. This has re-orientated the building and placed its front elevation southwards, overlooking the proposed car park. This has placed the public parts of the site, including access and routes to third party parking areas in a combined zone. The layout also includes a rear communal garden which is largely private and enclosed. In general layout terms, the scheme provides a positive response to the site, successfully defining the public and private realm.
7. Nevertheless, the proposed development would have a relatively large footprint and substantial mass within this confined site. The ridge of the three-storey element would be below the eaves of buildings on Castilian Street. However, the appellant's sectional drawing shows it would be taller than the adjacent rear wings of neighbouring buildings. The proposal would contrast in scale with neighbouring development especially the two-storey wing to the rear of 13-15 Hazelwood Road. These relationships would create an uncomfortable juxtaposition of forms that would relate poorly to each other. Consequently, the scale of the proposal would not reflect the general scale or form of local buildings which are predominantly two-storey around the perimeter of the site.
8. Moreover, the proposal includes shallow pitched roofs that would not follow the predominate pitch of local roofs. Its design of window, although traditional in style, does not show a variety of form that would add interest within their group configuration, resulting in an arrangement that would be both bland and repetitive. The inclusion of gable ends would add some vertical emphasis that would replicate the style of surrounding town house developments. However, the projecting gables of the front elevation appear disproportionately elongated

² section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990

and narrow in comparison to the front elevation of the building. In combination with a central rendered panel, these features would poorly relate to the remainder of the building and the surrounding area. The design of the building would be of limited quality. This would also prevent the building from successfully integrating with the surrounding area.

9. Whilst in a back-land location, the building would be partially visible from Hazelwood Road. Its visibility from the public realm would increase and exacerbate its harmful impact on the character of the area. The proposal would substantially erode the existing space and gaps between the existing neighbouring buildings with a bulky form of development. Accordingly, despite the merits of the scheme's layout, the proposal would fail to combine form and character in a manner that would represent a well-designed development as sought by the National Design Guide. Therefore, the proposal would not accord with the prevailing character of surrounding development.
10. Consequently, the proposal would not preserve or enhance the character or appearance of the DCA. Accordingly, the proposed development would conflict with policies S10, H1 and BN5 of the Joint Core Strategy (JCS), policy 1 of the Central Area Action Plan and the Framework. These policies seek, among other matters, for development to sustain and enhance the heritage features which contribute to the character of an area and to positively contribute to the existing urban grain and architectural style of surrounding buildings.
11. The harm identified to the conservation area would be 'less than substantial'. Paragraph 202 of the Framework, states that where harm to a heritage asset would be 'less than substantial' this should be weighed against the public benefits of a proposal. The proposal would make efficient use of previously developed land in an urban setting where future occupiers would have good access to a range of goods and services. It would also deliver new economic activity both during and post construction. These benefits would be of moderate positive weight in favour of the scheme. Nevertheless, the Framework requires great weight to be afforded to the conservation of a heritage asset. As such, the benefits would not outweigh the harm found to the conservation area, which the Framework identifies as an irreplaceable resource.

Living conditions – existing

12. No's 21-29 are within a residential building, known as 'The Cube'. This includes a rear return that extends beyond the rear elevation of its neighbour ('Mapel House'). It's south elevation overlooks the car park of 'Mapel House'. The habitable room windows of this elevation would also overlook part of the proposed building. Nonetheless, due to the separation distance and oblique relationship, the effect on neighbour's outlook from these windows would be limited. 'The Cube' includes a penthouse that has windows and a terrace that would directly overlook the site. However, views from this vantage would over-sail the appeal site. As a result, outlook from windows within 'The Cube' would not be adversely affected by the proposed building.
13. The proposed development would be to the south-west of the site. In terms of access to daylight and sunlight, the south facing elevation of 'The Cube' would already have compromised access to sunlight due to the proximity of 'Mapel House' and other built form. However, due to its scale and relatively close proximity to the neighbour's windows the proposal would contribute to a tunnel effect, providing reduced access to sunlight. In the absence of shadow or

sunlight diagrams there is no evidence to dissuade me of the view that the proposal would result in a moderate loss of sunlight. In contrast, due to the reasonable separation distances, access to daylight would not be substantially eroded.

14. As such, the proposal would result in moderate harm to the living conditions of existing occupiers of No's 21-29 in terms of a loss of sunlight. Consequently, the proposal would conflict with policy H1(g) of the JCS and the Framework in regard to effect on neighbours. This seeks development to have regard to its impact on the amenities of occupiers of neighbouring properties and creates a high standard of amenity for existing users.

Living conditions – proposed

15. The proposed communal amenity space would be overlooked by users of the terrace within the penthouse of 'The Cube'. Nevertheless, being a shared space, the rear amenity space would only be semi-private, and would also be overlooked by many proposed flats. Furthermore, overlooking into neighbouring private space is relatively common in urban areas where a lower expectation of privacy would exist. However, the ground-floor flats would be immediately adjacent to either car parking areas or manoeuvring areas. This relationship would result in pedestrians being able to look directly into habitable rooms. There is no scope for the scheme to include landscaping or boundaries to create privacy or a sense of security, a concern shared with the crime prevention officer. The proposal would therefore lack adequate defensible space for future occupiers and would create a poor-quality living environment.
16. In consideration of noise effects, it is noted that a substation is located adjacent to the eastern boundary of the site. This could result in noise levels that could harm future occupier's living conditions. However, when on site I did not find noise from the substation to be especially overt or obtrusive. Furthermore, the movement of vehicles through the proposed layout of the site would be unlikely to raise a substantial noise impact or result in car movements at antisocial times. Therefore, the noise levels of existing and proposed activity would be unlikely to result an adverse noise effect for future occupiers.
17. Consequently, the proposal would create a poor living environment for future occupiers with respect to privacy. Accordingly, the proposal would be contrary to policy H1(f) and the Framework. These seek for development to have regard to the living conditions provided for future residents and create a high standard of amenity for future users.

Highway safety

18. Hazelwood Road is a one-way road with a 30mph speed restriction. The existing access includes parking provision along the entrance driveway forming a single width access. The proposed scheme would reuse the existing access from Hazelwood Road.
19. The previous appeal was partly dismissed due to an absence of on-site manoeuvring, for the six proposed parking spaces, resulting in a likelihood that cars would have to reverse out of the site. Although six spaces are also proposed within this proposal, adequate manoeuvring space would exist for vehicles to enter and leave the site in a forward gear. Furthermore, although

the proposed gated entrance and bin store location would prevent two cars from passing inside the site, this would be the same as the existing arrangement.

20. The proposed visibility splay, for motorists looking north at the access, would be compromised by the corner of 'Mapel House'. This is built up to the footway which is only around 1.5m wide. This relationship would result in motorists having an obstructed view when leaving the site and having to slightly enter the carriageway for a clear view. Nonetheless, on street parking around the access is prevented in the daytime by parking restrictions. As such, the overall effect on highway safety would be lessened due to the speed restriction of the road, its one-way character and local parking restrictions.
21. Due to the narrow access and poor visibility the scheme may result in some traffic congestion within the street and create a hazard to pedestrian safety. However, traffic movement associated with the proposal would be extremely light and much reduced from that associated with the existing car park. Furthermore, traffic associated with the existing car park would be likely to have resulted in cars arriving and leaving throughout the day. In contrast, future residential occupiers would be likely to use their cars less frequently. The reduced vehicular movements, in combination with the lower number of spaces provided on site, would substantially reduce the quantity of cars using the access throughout the day and thus reduce the safety risks associated with the visibility splay around the access.
22. The proposed layout includes no dedicated pedestrian routes. Nonetheless, based on the limited number of parking spaces proposed, traffic movements around the site would be limited and slow moving. Therefore, pedestrians would not require a dedicated route and would be able to walk through a safe shared space.
23. Although the Council suggests that future development is expected to come forward on the site that would have no parking, no alternative proposal is in evidence, and this seems to be an unlikely scenario. Furthermore, there is no indication that the car park is subject to a temporary planning approval. As such, this appears to be a permanent development that would be likely to remain until it is replaced with any alternative development.
24. As such, based on the existing use of the site, the scheme would result in substantial betterment with respect to highway safety, forming a safer highway environment than is currently evident. Consequently, the proposal would comply with policies S10 and C2 of the JCS and the Framework. These policies seek, inter alia, for new developments to not have an unacceptable impact on highway safety and be located where services and facilities can be easily accessed by walking, cycling and public transport.

Other Matters

25. The Council has indicated that a smaller scheme may be found to be acceptable. However, I am required to consider the proposed scheme on its own merits and cannot attribute weight to the merits of a future alternative scheme.

Planning Balance and Conclusion

26. The Council was unable to demonstrate it had a five-year supply of housing during consideration of the previous appeal, with a substantial shortfall of 3.27 years. Whilst I do not have an updated five-year supply position from any party, it seems highly likely that this position remains. Therefore, paragraph 11(d), of the Framework, explains that policies most relevant to determining the application are deemed to be out of date unless assets of particular importance provide a clear reason to refuse the development. Having applied great weight to the harm caused to the conservation area, this provides a clear reason to refuse the proposal. Therefore, the presumption in favour of sustainable development does not apply.
27. The proposal would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which would outweigh this finding. Therefore, for the reasons given, the appeal should not succeed and planning permission is refused.

B Plenty

INSPECTOR