



Appeal Decision

Site visit made on 10 August 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2022

Appeal Ref: APP/M3455/W/21/3289266

**2-4 Moorland Road and 1-3 Swan Square, Burslem, Stoke-on-Trent
ST6 1DQ**

- 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 Steve Kapoor against the decision of Stoke-on-Trent City Council.
 - The application Ref 66406, dated 5 March 2021, was refused by notice dated 18 June 2021.
 - The development proposed is conversion of former bank commercial premises to residential 1 bed flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have amended the description of development to the change of use to 3no. self-contained residential flats and 2no. studios (use class C3). This is the description used by the appellant on the appeal form and the Council on the decision notice. I have determined the appeal on this basis, as it more accurately defines the development proposed.

Main Issues

3. The proposal includes the conversion of an existing building into flats and studios. The Council have raised no objection to the principle of residential development in this location. Based on all that I have seen and read, I see no reason to disagree with this point of view. The main issues of this appeal are the effect of the proposal on;
 - i) the living conditions of the future occupiers with particular regard to noise, privacy and outlook; and
 - ii) the character and appearance of the Burslem Conservation Area.

Reasons

Issue 1 - Living Conditions

Noise

4. The appeal site occupies a town centre location, next to a busy crossroads from which traffic noise is generated. Numerous small businesses are within the vicinity of the appeal site including take-aways and public houses. Such uses

can generate noise and disturbance from comings and goings, and events including live music or functions often late into the evening. Whether or not the Red Lion pub opposite the appeal site is currently operating, I am not aware of any circumstances that would prevent the pub from re-opening at any point.

5. Reference is made to a prior approval application (reference number 67220) under Class MA, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). I am advised that this application included the provision of a noise assessment (NA) by Nova Acoustics and that although the application was ultimately refused by the Council, it was not rejected on noise grounds.
6. Although the NA was not submitted with the original planning application, it is now before me. The NA appears to have been carried out between a Sunday and Tuesday. Friday and Saturday nights are likely to be the busiest times for the nearby pubs and take-aways, as well as match days given the proximity to Port Vale football ground. Therefore, it is not clear how representative the NA is of the activity associated with these neighbouring noise generating uses, on the busiest nights of the week.
7. The NA states that noise from external sources is capable of being mitigated through glazing treatments and ventilation systems. Nevertheless, the mitigation measures proposed within the NA are generic and have not been translated into specific measures within the plans before me. In my judgement it would be unreasonable for windows to have to be closed and ventilation provided mechanically, for permanent living accommodation. Notwithstanding the outcome of the Class MA determination, without specific measures to attenuate noise for the future occupiers, it is likely that they would experience noise and disturbance late into the night, beyond a time when residents could reasonably expect a lack of any such disturbance, even in a town centre location.

Privacy

8. The proposal would create 3 one-bedroomed flats at ground floor level with habitable living space facing onto the street. I saw that the ground floor window on the northern-most part of the building facing onto Moorland Road, has a lowered cill height. The lower window panes are painted white and a section of the window is boarded over. No changes are proposed to the external appearance of the building. However, I note that the removal of these items would not in themselves be development requiring planning permission. Although a snapshot in time, during my visit at rush-hour on a mid-week morning, I saw a good number of people walking past the appeal site, most of whom were accessing the bus stop on Swan Square. Were clear glazed windows to be revealed or installed into this window, overlooking from passing pedestrians and cars waiting at the nearby traffic lights is likely to occur. Given that this would be the only window into the private living space of flat one, I find that this would be harmful to the privacy of the future occupants.
9. Whilst there may be mechanisms to mitigate the privacy issue such as obscured glazing or alterations to the window, they may require planning permission. Whilst addressing privacy, such measures may also have implications for the outlook from the flat, which would be further harmful to the living conditions of the future occupiers. Internal shutters do not require planning permission and their use and retention could not adequately be

controlled as a result. I do not therefore consider that the privacy issue could be adequately overcome by condition in this instance.

10. The remaining ground floor windows due to the curve of the building and the change in external ground level are all of such a height that passengers within nearby cars are unlikely to have a view into the proposed habitable rooms. In addition, these windows contain obscured glazing within the lower panes. Those facing onto Swan Square are above head height. Future occupants of flat 3 are unlikely to perceive being overlooked by pedestrians as a result.

Outlook

11. Each upper floor bedroom would have a window which I saw currently receive a good amount of sunlight. Although there is a large building that appears to be part of the Swan Bank Centre to the south-east, it was not so close as to severely restrict outlook. Given that the main living areas would be to the front of the building and that the windows on the front elevation are large, I do not consider that the flats would provide a low standard of outlook for the future occupants.

Conclusion on Issue 1

12. The proposal would provide an acceptable level of outlook for the future occupiers of the proposed development. However, this would not overcome the harm caused to the living conditions of the future occupiers arising from external noise generated by existing neighbouring uses without specific attenuation, and the lack of privacy afforded to the main living area of flat one. Therefore, the proposed development is contrary to R15 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance Supplementary Planning Document 2010 (SPD) which requires buildings to be designed to provide reasonable levels of privacy to habitable rooms. It would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) which requires new development to have a high standard of amenity for future users.

Issue 2 - Character and Appearance

13. The appeal site lies within the boundary of the Burslem Town Centre Conservation Area (CA). In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA.
14. The significance of the CA lies in its mixture of prominent municipal and industrial buildings, particularly those associated with the growth of the pottery industry. The majority of buildings within the CA are 3 storeys in height, with continuous high density frontages directly onto the street. Buildings are typically decorative and constructed of high quality materials including red brick, with stone reserved for the larger more prestigious civic buildings.
15. The appeal site consists of a 3 storey building that forms a focal point, turning the corner of Moorland Road (B5051) and Swan Square. It is constructed from dressed stonework including decorative pilasters, red brick laid in a Flemish bond, and mock tudor timber detailing to the upper storey. The word 'bank' is in profile above the main entrance doors which directly abut the back edge of

the pavement. As such it contributes to the architectural and historical significance of the CA as identified above.

16. The former bank is in a rundown condition. The proposed re-use of the building for residential purposes would therefore contribute to the renewal and ongoing maintenance of this historically important and publicly prominent building. Given that the proposal seeks the change of use of the building only without alterations to the external appearance of the building, the impact on the CA would be neutral. Hence, the significance of the CA would not be harmed and the appearance of the CA would be preserved.
17. The proposal would not result in harm to the character or appearance of the Burslem CA. The proposal would comply with Policies CSP1 and CSP2 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (2009) which seeks to preserve and enhance the character and appearance of historic buildings.

Other Matters

18. Reference is made to a further prior approval application under Class MA of the GPDO (reference 67417/PRA) for the change of use of the first floor and part of the second floor of the building into 3 flats. However, there is no evidence before me from the parties as to the outcome, if any, of this application. Nevertheless, there is a distinction between the considerations that are applicable to planning applications and the conditions required to comply with the prior approval process. Even if the prior approval application has been permitted, it would only relate to the upper floors and not the whole building. Consequently, the fallback position would be considerably different and the degree of harm less, than the proposal before me.
19. The proposal for flats and studios would increase the range and quantity of the housing stock and secure the future of a building of architectural and historical interest. I saw that there are a number of boarded up and vacant premises within Burslem. The introduction of residential development could contribute towards the regeneration of the town centre, including the future occupiers supporting local businesses. Modest weight is attached to these benefits.

Conclusion

20. The proposed development would bring about benefits in terms of contributing to sustainable town centre living and re-using an important building that contributes to the character and appearance of the CA. However, the benefits would not outweigh the adverse effects I have found would be caused in relation to the living conditions of the future occupiers in respect of noise and privacy. For the above reasons, having considered the development plan as a whole, the approach in the Framework and all other relevant material considerations, the appeal is dismissed.

M Clowes

INSPECTOR