



Appeal Decision

Site visit made on 21 February 2023

by Philip Mileham BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 March 2023

Appeal Ref: APP/U2615/W/22/3300131

72 St Nicholas Road, GREAT YARMOUTH, NR30 1NP

- 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 Rachid Elhassani against the decision of Great Yarmouth Borough Council.
 - The application Ref 06/21/0966/CU, dated 17 November 2021, was refused by notice dated 19 April 2022.
 - The development proposed is Change of use from shop to residential.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council considers the appeal proposal to be retrospective and this is reflected in their decision notice. I note that some of the works described in the Council's appeal statement were not evident at the time of my visit albeit there are some discrepancies between what is shown on the existing plan and what was visible on site. Notwithstanding this, I am considering the proposal on the basis of the plans as submitted and I have utilised the accompanying description of development from the application form.

Main Issues

3. The main issues are the effect of the proposal on:
 - the safety of future occupiers having regard to flood risk;
 - the character and appearance of the area including on the setting of the nearby St. Nicholas/ Northgate Conservation Area; and
 - the living conditions of future occupiers having regard to available living space and neighbouring occupiers having regard to refuse storage.

Reasons

Flood risk

4. The proposed development would result in the change of use of a shop to residential use. The site is located within flood zone 3 as a result of its proximity to the River Yare which is also the source of the potential fluvial and tidal flooding. The Planning Practice Guidance (PPG) indicates that in areas at risk of flooding, residential development is classified as 'more vulnerable' development, and as a result, the PPG requires residential proposals to be

subject to a site specific Flood Risk Assessment (FRA) to determine, amongst other things, whether it would be affected by current or future flooding from any source and whether it would be safe.

5. A FRA which accompanies the appeal proposal shows the potential depth of flooding from watercourses in a 1 in 200 annual probability flood event would be 3.252 metres above ordnance datum (AOD). However, the FRA does not include any topographic information or calculate the expected flood depths on site and within the appeal building. The Environment Agency identifies that the proposal would be subject to an internal flood depth of 1.61 metres in a 1 in 200 annual probability with climate change flood event. This depth would also include the potential flood hazard on the access route to the site which would be used by emergency services. Having regard to the Department of the Environment, Food and Rural Affairs (DEFRA) technical report FD2320: Flood Risk Assessment Guidance for New Development, the potential flood depths would be classed as being dangerous for all.
6. As the proposal would introduce a 'more vulnerable' use at ground floor level, paragraph 48 of the PPG requires development to demonstrate it would be safe for its lifetime taking into account the vulnerability of its users and that a FRA may need to show appropriate evacuation procedures and flood response infrastructure is in place to manage the residual risk. Furthermore, paragraph 167(e) of the National Planning Policy Framework (The Framework) requires proposals in flood risk areas to demonstrate safe access and escape routes are included as appropriate. There is no evidence submitted with the appeal which demonstrates that suitable evacuation procedures have been prepared. As a result, the proposal would fail to accord with the Framework in this regard.
7. The proposal would not alter finished floor levels and would result in domestic living accommodation including bedrooms being introduced at ground floor level. No evidence has been submitted that any specific on-site flood mitigation measures have been proposed that would address the risk to future occupiers. Furthermore, there is no evidence before me to indicate that future occupiers would have a safe access or egress from the proposed development in the event of a flood that paragraph 47 of the PPG sets out.
8. In light of the above, the proposal has not demonstrated that it would be safe for future occupiers having regard to flood risk. It would therefore fail to accord with Policy CS13 of the Great Yarmouth Local Plan Core Strategy (2015) (GYCS) which seeks to direct development proposals away from the areas at highest risk of flooding unless it can be demonstrated that a satisfactory Flood Response Plan has been prepared.
9. The proposal would also fail to accord with paragraph 167 of the Framework which states that development should only be allowed in areas at risk of flooding where it can be demonstrated that any residual risk can be safely managed and that safe access and escape routes are included where appropriate. It would also fail to accord with the PPG for the reasons set out above.

Character and appearance

10. The appeal proposal at the time of my visit included a fascia with a corner door and two tall glazed windows. The site is located opposite the St. Nicholas/ Northgate Conservation Area and would be within its setting. The shopfront

makes a positive contribution to the character and appearance of the area as a result of its facia, tall windows and inset door which provide a visual link to its former use. The area surrounding the site is characterised by a mix of two storey residential properties including terraces that are interspersed with commercial uses including a nearby supermarket and petrol station.

11. The proposed development would result in the removal of the former shop front, fascia and the corner entrance door and replace them with windows on the front and side elevations. The proposal would also remove the inset door entrance and square-off the ground floor plan to create a living, dining and kitchen area. As a result of these proposed changes, any traces of the building's former use as a shop would be lost and the building would take on a purely residential appearance. Furthermore, the changes to the external appearance of the building would remove the visual interest that the shop front creates within the wider street scene.
12. The ground floor frontage of the building would include two new windows replacing the detail described above which would result in the appeal proposal having a bland appearance compared to the existing features. The proposal would therefore adversely affect the relationship between the appearance of the site as a former shop and its relationship as such to the surrounding terraced dwellings. As the proposal would be located on a prominent corner position, it would be highly visible to passing pedestrians and from views from passing vehicles. As a result, the removal of the detailing on these elevations would be harmful to the appearance of the area.
13. Section 72(I) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to give special attention to the desirability of preserving or enhancing the character or appearance of Conservation Areas. Having regard to appeal proposals removal of detailing and the bland appearance of the side elevations, I find that the proposal would fail to preserve or enhance the character or appearance of the St. Nicholas/ Northgate Conservation Area.
14. In light of the above, the proposal would result in harm to the character and appearance of the area including on the setting of the nearby St. Nicholas/ Northgate Conservation Area. It would therefore fail to accord with policy E5 of the Great Yarmouth Local Plan Part 2 (2020) (GYLPP2) and policies CS09(A) and CS10 of the GYCS which seek to collectively ensure development proposals conserve and enhance heritage assets and their settings, positively contribute to the character of the area and respond to the surrounding area's distinctive historic characteristics.
15. The proposal would also fail to accord with paragraph 200 of the Framework which seeks that any harm to the significance of a designated heritage asset including from development within its setting, should require clear and convincing justification.

Living conditions

16. The proposed development would create a 2 bedroom ground floor flat with an overall floorspace of around 40 sqm with the bedrooms being around 7.75 sqm and 6.91 sqm respectively. Both bedrooms would be around the size of single bedrooms with the rest of the flat comprising a separate bathroom and a single kitchen, dining and living space.

17. The Council has indicated that it has not formally adopted the Government's Nationally Described Space Standards (NDSS) as part of their Local Plan or produced any other local space standards but has made reference to them in their decision. Whilst I will reach my own findings on the acceptability of the proposal, the NDSS nonetheless provides a useful comparator for the overall floorspace of accommodation to be provided.
18. Proposed bedroom number 2 would be slightly smaller than the guidance in the NDSS for a single bedroom and the submitted plans do not show any built-in storage within the flat. The plans do not show the proposed bathroom having sufficient space to facilitate the installation of a bathtub and there would be insufficient floorspace across the main living, dining and kitchen area to provide a satisfactory level of accommodation for future occupants once any furniture and storage would be introduced. Furthermore, no access is shown to any outdoor space which would be available for use for recreation, leisure or other domestic matters including the drying of clothes. These factors would collectively result in the proposed flat being cramped, with insufficient internal space and offering a poor level of accommodation.
19. The plans indicate that the proposal would result in refuse storage being located outside the front of an adjacent ground floor flat. The plans show that the adjacent ground floor flat has a single window in the front elevation. When viewed on site, the window of the adjacent ground floor flat has a relatively low sill height. The proposed development would result in wheeled bins obscuring part of this window resulting in harm to the outlook of the adjoining occupiers. Furthermore, the proximity of the proposed bin storage to the adjacent flat window could result in further harm to the living conditions of adjoining occupiers as a result of odour arising from the bins themselves when the window is required to be open for ventilation.
20. Having regard to the extent of internal space available, the number of bedrooms proposed and the absence of any outdoor space, the proposal would not provide acceptable living conditions for future occupants. My own findings are reinforced by the NDSS which indicate that the appeal proposal would be around 21 sqm below the corresponding standard for a 2 bedroomed 3 person flat.
21. The appellant has drawn my attention to a nearby proposal at 10A Silkmill Road which would provide accommodation below the NDSS standard. However, this scheme was around 8 sqm below the NDSS standard. The Council has also indicated that there were different policy and land supply circumstances at the time of the Silkmill Road decision with the current Local Plan adopted after this proposal was determined. As such, this is of limited weight in my decision.
22. In light of the above, the proposal would be harmful to the living conditions of future occupiers having regard to available living space and neighbouring occupiers having regard to refuse storage. It would therefore be contrary to policy A1 of the GYLPP2 and policy CS09(F) of the Great Yarmouth Core Strategy (GYCS) (2015) which indicate that planning permission will only be granted where development would not lead to an unreasonable impact on the amenities of the occupiers of existing development and proposals seek to protect the amenity of existing and future residents.

23. The proposal would also fail to accord with paragraph 130(f) of the Framework which seeks to ensure planning decisions create places with a high standard of amenity for existing and future users.

Other Matters

24. Following the production of appeal statements, the Council has identified that due to the proposal being for a change of use, footnote 56 of the National Planning Policy Framework (the Framework) indicates that the demonstration of the sequential test for flood risk would not be required. As such, page 3 of the Council's statement indicates that the second reason for refusal was no longer in dispute. I concur with this assessment and therefore I have not addressed the sequential approach further in reaching my decision.
25. The Council has identified that having regard to the lack of outdoor space proposed by the appeal development, a contribution towards the provision of open space off-site is required. However, there is no evidence that the appeal proposal would secure such a contribution and no planning obligation has been provided. However, as I am dismissing the appeal I do not need to consider this further.
26. The Council has indicated that the proposal would adequately mitigate the impacts of the proposal on protected sites. Whilst the appellant has indicated that the additional mitigation sum would have been paid, this has not been addressed as part of this appeal through any planning obligation. However, as I am dismissing the appeal on other grounds, it is not necessary for me to consider this matter further.

Conclusion and planning balance

27. The appeal proposal would provide an additional unit of accommodation which, due to its size could contribute to meeting the needs of those on lower incomes and make a contribution to the local housing stock. However, due to the extent of the harms I have identified above in relation to flood risk, the character and appearance of the area including the setting of a heritage asset and the living conditions of future occupiers and adjoining occupiers, the deficient standard of accommodation would not result in a positive contribution to meeting local housing needs.
28. As a result, there are no considerations that outweigh the harms I have identified as well as the conflict with the Development Plan when read as a whole. As such, there are no reasons for the decision to depart from the Development Plan in this instance.
29. In light of the above, I conclude the appeal is dismissed.

Philip Mileham

INSPECTOR