



Appeal Decision

Site visit made on 20 June 2023

by J Gunn DipTP, DipDBE, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 June 2023

Appeal Ref: APP/M2840/W/22/3313335

137 Wellington Street, Kettering NN16 8RN

- 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 Somal against the decision of North Northamptonshire Council.
 - The application Ref NK/2022/0450, dated 11 July 2022, was refused by notice dated 3 November 2022.
 - The development proposed is the change of use of outbuilding to 2 No flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. During the appeal process the appellant submitted revised plans, shown in Appendix 5 of their statement of case, and requested that they be taken into consideration in any determination of the appeal. The appellant acknowledges that revised plans are not normally accepted as part of an appeal but asserts that under different circumstances they would have been submitted as part of the processing of the appeal application.
3. Before deciding whether or not to accept the revised plans I am required to apply the 'Wheatcroft Principles'¹. The main, but not the only criterion on which that judgement should be exercised is whether the development is so changed that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation.
4. In this regard I have taken into account that, according to the Council's delegated officer report, no comments had been received from neighbours at the time of the reports production. That said, the Town Council did object to the proposal, on the grounds that it would result in the loss of a family sized home, the impact on on-street parking, the need for a parking beat survey, and their view that it would constitute an overdevelopment of the site. Although they were not specifically consulted on the revised proposals, they and neighbouring occupiers, were notified of the appeal and have had an opportunity to respond to the appellant's submitted evidence. On this basis, I have decided to consider the revised plans.

Main Issue

5. The main issue is whether the proposal would provide acceptable living conditions for future occupants with particular regard to outlook from the

¹ Bernard Wheatcroft Ltd v SSE [JPL 1982 P37]

bedroom windows, the provision of private amenity space and the use of the bin/cycle storage area.

Reasons

6. The windows to the bedrooms of the proposed ground and first floor flat would be located on the flank wall of the appeal property and would face across a small courtyard towards the rear elevation of 139 Wellington Street. Windows are located in the rear elevation of No 139 at ground and first floor level. A nominal boundary line is shown on the proposed layout plan approximately 1 metre from the flank wall, however no details are provided regarding what form the boundary would take.
7. Whilst I accept that the area is characterised by close knit properties, reminiscent of the Victorian period in which they were built, it is important to ensure that future occupiers have a reasonable standard of accommodation. In particular a balance needs to be struck between protecting the privacy of the occupiers and providing a reasonable outlook from habitable rooms.
8. Even with the introduction of French doors, as shown on the revised plans, the outlook from the ground floor bedroom would be significantly restricted as a consequence of the boundary treatment being set within 1 metre of it. As a result, the ground floor bedroom would not be a pleasant place to enjoy and spend time. I acknowledge that the use of fixed and obscure glazed windows up to 1.7m high, and clear glass above that, in the first floor bedroom, would provide a reasonable level of privacy for existing and future occupiers. However, as a result views from the bedroom would be significantly restricted, and future occupants would not be provided the high standard of amenity considered appropriate for new residential accommodation.
9. Policy 8 of the North Northamptonshire Joint Core Strategy (NNJCS) requires flexible and resilient designs for buildings and their settings, including access to amenity space. That said, the policy is not prescriptive in how the provision should be met, or the level of amenity space that should be provided. Consequently, I am required to make a judgement based on the proposal before me, and its context.
10. In this regard I have taken into consideration developments that have taken place in the locality, including those at Moss Court and at the former bakery on the opposite side of Wellington Street. Whilst accepting that the Moss Court development provides no on site private amenity space, I have no substantive evidence to indicate the circumstances which prevailed when that development was permitted. As far as the former bakery site is concerned it appeared to me that all of the dwellings had access to private amenity space that was accessible to the occupiers. This, in my view, provides a good standard of amenity, in line with policy.
11. I have also taken into account the availability of public open space in the locality. Whilst public open spaces are available within a short distance of the appeal site, and provide recreational opportunities, I do not regard them as performing the same function as private amenity space attached to the property. In my judgement, the availability of public open space does not outweigh the lack of on-site provision.

12. The revised plans indicate the provision of a small area of private amenity space adjacent to the flank wall, with access from the ground floor flat bedroom. The space proposed would be restricted in area and it is likely to be in shade for significant parts of the day. That said, it would meet the minimum requirements of policy 8. Likewise, the balcony, proposed for the first floor flat would secure a modicum of external space that would comply with policy requirements.
13. I am also satisfied that the area alongside the flank wall of the appeal building could accommodate any refuse/recycling requirements, and cycle storage needs associated with the proposed development. Furthermore, given that the use of the bin/cycle storage area would be restricted to the occupiers of the flats, the level of activity associated with them would be likely to be limited. Therefore, any nuisance arising from these facilities would be unlikely to cause significant harm to the occupiers of the ground floor flat. If I were minded to allow the appeal a planning condition could be applied to ensure the delivery of the bin/cycle storage facilities with appropriate screening and secure access.
14. The revised plans make provision for adequate on-site amenity space. I have also found that the provision of the bin/cycle storage area would not cause nuisance to future occupiers of scheme. However, the absence of harm with regard to these matters are neutral factors and do not outweigh the significant harm that I have found with respect to the outlook from the bedrooms. Accordingly, there would be conflict with Policy 8 of the NNJCS which seeks, amongst other matters, developments that protect amenity, thereby ensuring a good quality of life and a safer and healthier community. It is consistent with paragraph 130 of the National Planning Policy Framework, which supports development with a high standard of amenity for existing and future users

Other Matters

15. I accept that the scheme would utilise a vacant building and deliver 2 units of accommodation and assist in the delivery of housing in the locality. However, I am not aware that the Council has an unmet need for housing. Furthermore, it is unlikely that the scheme before me is the only way in which additional housing could be provided on the site.
16. I acknowledge that the appellant has sought the advice of the Council as to what would be acceptable development and has sought to make amendments to the proposal. I also recognise that communication between the main parties could have been better, however this does not alter the conclusions that I have reached.

Conclusion

17. There are no other material matters, of sufficient weight, that indicate the application should be determined other than in accordance with the development plan as a whole. The appeal is therefore dismissed.

J Gunn

INSPECTOR