



Appeal Decision

Site visit made on 5 September 2023

by H Smith BSc (Hons) MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 October 2023

Appeal Ref: APP/W2845/W/22/3313283

31 Upton House, Billing Road, Northampton, Northamptonshire NN1 5DQ

- 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 Shah (R2G Developments Ltd) against the decision of West Northamptonshire Council.
 - The application Ref WNN/2022/0442, dated 8 April 2022, was refused by notice dated 30 September 2022.
 - The development proposed is residential development of 6no apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council's Residential Extensions and Alterations Design Guide Supplementary Planning Document (2011) (Design Guide) sets out a separation distance of 21m between facing windows. Therefore, I find the Design Guide to be a suitable guidance against which to benchmark separation distances for privacy.

Main Issues

3. The main issues are the effect of the proposal on the:
 - character and appearance of the area, with particular regard to the Billing Road Conservation Area, and the setting of a non-designated heritage asset and the adjacent grade II listed building; and
 - living conditions of neighbouring occupants, with particular regard to outlook and privacy.

Reasons

Character and Appearance

4. The appeal site comprises a large property set back from the highway on a spacious plot. The existing property is located at 31 Billing Road (No 31) and is a two to three storey building of traditional style, constructed from brick with a slate roof. The building has large bay windows to the front and a modern three storey extension to the rear. The site has vehicular access to the side, which leads to an area of hardstanding used for car parking positioned behind the building.
5. No 31 is recognised as a non-designated heritage asset. Its significance relates, in part, to its age and architectural detail. No 31 forms part of a group of

substantial mid-19th century villas built in neo-classical style and set within large grounds that make a positive contribution to the character and appearance of the area.

6. The appeal site is also located within the Billing Road Conservation Area ('the CA'). The significance and special interest of the CA is mainly drawn from its historic interest and architectural quality of the buildings. The character of the CA derives from the presence of high-quality Victorian buildings fronting Billing Road and set within spacious plots.
7. The overriding character of the existing development along Billing Road is that of properties set back but facing the road in linear building lines, on wide, deep plots. The spacious arrangement of the buildings and their strong street presence, with positioning fronting the road, are features that contribute to the character and appearance of the area and the CA.
8. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires decision makers to have special regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area, to which I have attached considerable importance and weight.
9. No 31 is positioned adjacent to the Grade II Listed Building of No 30/30a Billing Road. The significance and special interest of the listed building is derived, in part, from its age, its relevance to the historic evolution of the town, and its historic building fabric and gothic style with ornate detailing. This significance and special interest is further underpinned by the spaciousness of its plot and surroundings.
10. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest.
11. The proposed development would build-over a large part of the rear of No 31. It would result in the further expansion of this much-extended property, the capacity of which has already been significantly expanded to its rear. The proposal's further encroachment into No 31's rear area would harmfully intensify the extent of built development in this backland context.
12. While there is evidence of large rear extensions nearby, the extent of the proposal's depth and width in addition to the already extended property at No 31 is not characteristic of this area. The lack of space around the proposed development would result in built form close to the site's boundaries, retaining only a small area of surface car parking to the rear. This would be entirely inconsistent with the prevailing pattern of development of which buildings are set in spacious plots with open ground and face onto Billing Road. Therefore, the proposal would not complement the building pattern that characterises the surrounding area.
13. Given the positioning of the original building, the proposal would result in a detached and awkward relationship with the original building that is sited forward of the existing rear extension. Furthermore, the proposed development would be of 3 storeys. While this would be of a height and form comparable to existing properties in the vicinity, and although land levels drop slightly to the

site's rear, it would nevertheless be substantially bulkier than the original two-storey building. In addition, the proposal's eaves and ridge height would be at odds with the eaves and ridge height of the original building and the existing rear three-storey extension. Thus, the proposal would not transition well with the existing development at No 31 and would be incongruous in the backland context.

14. The projection of the proposal would also extend significantly beyond the rear elevation of the neighbouring listed building at No 30/30a. This increased projection together with the substantial height of the proposal would result in a loss of openness around the existing buildings, which would detract from the important openness of this area. Thus, the proposal would adversely affect the setting of the listed building and the non-designated heritage asset.
15. Due to its position to the rear of the existing building at No 31, the proposal would be largely screened from public vantage points along the highway. However, glimpses of the proposal would be visible to passers-by from Billing Road via the vehicular access to the side of No 31. The proposal would appear as a prominent and intrusive feature within its immediate setting and from numerous neighbouring properties and their rear plots, including the adjacent listed building. Therefore, the limited public views of the proposed development from the highway does not justify the harmful effect it would have on the established pattern of development in the area.
16. I acknowledge that the rear of existing properties on Billing Road are mainly used as car parking, nonetheless, the surface car parking areas provide a sense of openness and give relief to the surrounding built-up form. In contrast, the proposal would fail to preserve the open appearance found to the rear of the properties and would represent overdevelopment of the site.
17. The proposal would include sympathetic detailing and materials respectful of No 31 that could be reasonably secured through the imposition of planning conditions. However, these acceptable aspects would not outweigh the harm identified.
18. The Council is concerned that the proposal would overlook the rear of the adjacent listed building, which could restrict future economic uses of the listed building. However, due to the proposal's positioning it would mainly overlook the existing car park area of No 30/30a with only limited indirect views towards the rear of the listed building. As such, I do not find it would result in harm in this regard.
19. For the reasons given above, the proposed development would fail to preserve the setting of the CA, or the setting of the Grade II listed building. As such, it would harm the significance of these heritage assets. Paragraph 199 of the National Planning Policy Framework (Framework) advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation.
20. Similarly, a balanced approach is required to assess the effect on the setting of No 31 as a non-designated heritage asset, in accordance with the Framework. I consider that the proposal, by virtue of its siting, scale and visible influence, would have a negative material impact and would cause unacceptable harm to the setting of the non-designated heritage asset.

21. I would qualify that the degree of harm to these heritage assets would be less than substantial. In accordance with paragraph 202 of the Framework, that harm should be weighed against any public benefits of the proposal.
22. The proposal would contribute to the local housing supply on a smaller site in a sustainable urban location, being located within a close proximity to the town centre of Northampton. A number of key services and facilities are located within easy walking distance and the site is also near to bus stops and close to a train station. It would also provide some direct and indirect social and economic benefits, including employment during the construction period. However, I find insufficient public benefits arising from this proposal to offset the identified harm to which I attach significant weight.
23. The appellant has referred me to other development located elsewhere on Billing Road. I have also been provided with an aerial photograph of rear development along Billing Road. I do not have the full details of these cases before me or the circumstances which led to their approval. The aerial photograph provided by the appellant appears to show backland development that does not extend as far back into the plot as the proposal before me. Accordingly, based on the evidence before me, I cannot draw any direct comparison between these other developments and the proposal before me that weighs in its favour. In any event, I have determined the appeal on its own merits.
24. Consequently, the proposal would have a harmful effect on the character and appearance of the area, including the CA and the setting of the Grade II listed building and the non-designated heritage asset.
25. Therefore, I conclude that the proposal would fail to preserve or enhance the CA and would cause unacceptable harm to the setting of the Grade II listed building and the non-designated heritage asset. The proposal would therefore fail to accord with saved Policies E20 and E26 of the Northampton Local Plan (1997) (Local Plan), and Policy S10 of the West Northamptonshire Joint Core Strategy Local Plan (Part 1) (2014) (JCS). Collectively, these policies, amongst other things, seek to ensure development reflects the character of its surroundings, and preserves or enhances the character and appearance of the area, including heritage assets and their settings. In addition, the proposal would not accord with the policies of the Framework (Section 16), which seek to conserve and enhance the historic environment.

Living Conditions

26. The proposed development would include three south facing kitchen windows that would face directly towards the existing living room window of the ground floor flat in the host building. The separation distance between these windows would be around 10.45m. This distance would be considerably less than 21m, and therefore would not meet the minimum distance specified in the Council's Design Guide to safeguard privacy. I consider this shortfall in separation distance would result in overlooking.
27. As kitchens are rooms that are used frequently in a dwelling, I conclude that the harm caused by loss of privacy would be unacceptable to the neighbouring occupants living conditions.

28. The proposed development would be sited in close proximity to the side boundary of the neighbouring property at No 30/30a. The proposal's increased projection, combined with the drop in land levels between the site and the neighbouring property, would result in a visually intrusive and overbearing structure. The proposal would therefore unsympathetically impair the rear outlook to the detriment of the occupiers of No 30/30a. However, I am not sufficiently convinced that the proposal would result in harmful indirect overlooking of No 30/30a's rear windows. In my opinion, the proposal would be sited far enough away to ensure adequate privacy in this regard.
29. The proposal's positioning of the side facing windows close to the side boundary with No 30/30a would however enable overlooking into the rear outdoor space of this neighbour. Nevertheless, as this outdoor space is used as a car parking area, I do not find harm. I acknowledge that the use of the neighbouring building could change in the future, however there is no evidence before to suggest that the current use is no longer viable. Even if the use were to change to residential, as the plot size is large there is likely to be sufficient space for a private amenity area. I am therefore satisfied that the proposal would not result in loss of privacy to neighbouring occupiers at No 30/30a.
30. My attention has been drawn to a previous planning permission (ref: N/2020/1157) for a residential development at Brownlee Place. However, the Council has indicated that there would be no overlooking resulting from that case. The approved dwellings in that scheme would have no rear facing windows at first floor level, and the ground floor rear windows would be screened from neighbours to the rear by boundary treatment. As such, there are significant differences between that approval and the proposal before me. In any event, I have determined this appeal on its own merits and its site-specific circumstances.
31. For the reasons given above, the proposal would unacceptably harm the living conditions of neighbouring occupiers. The proposal therefore fails to accord with Policy E20 of the Local Plan. This policy, amongst other things, seeks to protect the amenity of neighbouring occupiers. In addition, the proposal would fail to accord with the Framework (para 130), where it seeks a high standard of amenity for existing and future users.
32. The Council refer to Policy E26 of the Local Plan and Policy S10 of the JCS in their reason for refusal for this main issue. However, these policies do not refer specifically to living conditions of neighbouring occupiers. As such, I do not consider these policies to be relevant to this main issue.

Other Matters

33. The appellant suggests that the backland nature of the development would not have any impact on the character of the CA. However, when considering the effect of the proposal on the character and appearance of the area and in particular the CA, it is not merely the aesthetic impact from the street scene, but also the 'character' of an area, which would include the prevailing pattern of development, such as the building lines, set-back distances, plot sizes and plot widths.
34. The proposed apartments would be of high quality and would comply with the Nationally Described Space Standards for 2-bedroom flats. Whilst this would be

a laudable approach, it would not be sufficient to make the proposal acceptable in light of the harms I have identified. I therefore attach limited weight to it.

35. There were no third-party representations made at appeal stage to the proposal. However, given the permanent nature of the proposal, the effects need to be considered in the long-term. Therefore, the lack of representations is a neutral matter that does not weigh in favour of the development.

Planning Balance

36. Although there would be some benefits to the proposal, as set out above, these benefits would attract only limited weight and would not outweigh the harm identified.
37. The appellant claims that the Council may not have a 5-year housing land supply (5YHLS). Nevertheless, even if I were to conclude there is a shortfall in the 5YHLS as suggested by the appellant, the harm I have found arising from this proposal is so significant that the adverse impacts of granting permission relating to the main issues would significantly and demonstrably outweigh the benefits, when assessed against the policies and the Framework taken as a whole. Therefore, the proposal would not benefit from the presumption in favour of sustainable development.

Conclusion

38. The proposal conflicts with the development plan as a whole, and there are no material considerations worthy of sufficient weight that would indicate a decision other than in accordance with it. The appeal is therefore dismissed.

H Smith

INSPECTOR