



Appeal Decision

Site visit made on 21 November 2023

by JP Sargent BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 January 2024

Appeal Ref: APP/V2635/W/23/3317933

18 Tuesday Market Place, King's Lynn PE30 1JW

- 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 Gain SPVKL Ltd against the decision of King's Lynn and West Norfolk Borough Council.
 - The application Ref 22/00033/F, dated 17 December 2021, was refused by notice dated 21 November 2022.
 - The development proposed is the change of use of the former first floor office cloakroom to a studio flat.
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Decision

1. The appeal is dismissed.

Procedural matters

2. A second appeal has been lodged relating to the creation of flats on the ground floor of these premises (Ref: APP/V2635/W/23/3317934), and that is being considered under another decision.
3. An application for costs was made by the appellant against the local planning authority, and that too is the subject of another decision.

Main Issue

4. The main issue is whether the proposed studio flat would be of a size that provided suitable living conditions for its future residents.

Reasons

5. This appeal concerns a modern extension on the rear of an older building. The extension was originally intended for offices, but I understand that its upper floors have now been almost entirely converted to apartments and flats. The exception to this are the former men's and ladies' cloakrooms on the first floor. This proposal is to knock these 2 cloakrooms into one, form enlarged windows, and create a further one-person studio flat. It would provide a kitchen area, a shower room, and associated living space.
6. When assessing development under Policy DM15 in the *Site Allocations and Development Management Policies Plan*, regard is to be given to the amenity of its future occupiers, while the *King's Lynn & West Norfolk Borough Council Core Strategy* Policy CS08 aims for high quality design. This policy approach reflects the requirement in the *National Planning Policy Framework* (the Framework) (dated December 2023) for places that create a high standard of amenity for future users.
7. I was referred to no internal space standards that were adopted by the Council to interpret these policies, to direct decision-making in an instance such as this, or to ensure some element of consistency across the Borough. However, in its case the

Council made reference to the *Technical Housing Standards - Nationally Described Space Standards* (NDSS) found in the Government's *National Model Design Code* (the Code). Although these give space standards for family accommodation, they also expressly state that a single storey unit (with shower room) for one person should have a minimum gross floor area of 37m². Various dimensions are before me as to the floor area of the unit to be created, but the application form states it would be 28m². The proposal would therefore be some 9m², or about 24%, below the minimum given in the NDSS. To my mind this is an appreciable shortfall.

8. The space standards in the NDSS are optional and for any Council to adopt through policy, and this Council has chosen not to do so to date. As a result, requiring compliance with the NDSS cannot be sought in assessing this case. However, whilst not advocating a strict allegiance to these standards, I am mindful that the Government considers them to be the minimum requirements for internal space within new residential units and so, in the absence of any local standards, they are a material consideration. Therefore, when assessing this proposal and seeking to establish if there is compliance with the aims of Policy DM15 I consider it is reasonable that some regard is given to the standards in the NDSS and they are taken into account in a flexible way as a broad guide.
9. The appellant considers the unit would not be cramped, and that is a judgement that will vary to a degree from one person to another. In my opinion, as someone could be living here on a permanent basis, the floor space created in this flat would not be sufficient to fulfil their reasonable needs and expectations over time, and it would not be an appropriate addition to the Borough's housing stock. Although I note the furniture the appellant says it could accommodate, to my mind that would result in it being unduly cramped. Consequently, I consider its size would result in unsuitable living conditions for its residents in conflict with Policy DM15, and mindful it falls appreciably below what the Government advises is the minimum required floor area for such a unit lends confidence to this finding.
10. In coming to such a view, I accept that the floor space requirements need to be balanced against other considerations. In particular I recognise that this scheme is utilising existing floor space in a highly sustainable location, in line with the Framework's emphasis on maximising the use of urban sites, and in accordance with one of the requirements of Core Strategy Policy CS08. I am aware too of the advice on high density urban form in the Code. I see no reason though why such requirements and advice cannot be achieved while also providing suitable internal living space. I also have no specific evidence to show the change of use of this relatively small area of the property is necessary to ensure the future of this listed building is not threatened. Consequently, these factors do not justify a unit of this limited size.
11. Potential occupiers would have the choice of whether or not they wanted to live here, once they had noted the standard of accommodation offered. However, the planning system should ensure that new residential accommodation comprises a creditable and suitable addition to the housing stock. Moreover, just because a future occupier may opt to live in unduly small and cramped accommodation, it does not mean they necessarily consider it desirable or satisfactory. Rather, their decision may be driven by other circumstances and factors. As such, it is not appropriate to rely on occupiers choosing to live here as determining whether or not the standard of accommodation is suitable.
12. In 2022 the Council granted planning permission for the cloakrooms on the second and third floors of this extension, to be converted from a single duplex apartment into 2 studio apartments (the 2022 decision). Those were directly above the

cloakrooms subject of this appeal and, I understand, exactly the same size. I was told that decision did not have regard to the NDSS or similar, and indeed I am unaware of the precise basis on which it was judged that the unit sizes were adequate and not in conflict with development plan policy. However, the 2022 decision made by the Council does not bind me in my consideration of this case. Indeed I viewed one of those apartments, and what I saw did not lead me to different findings.

13. The appellant also argued that the Council was estopped from refusing this current proposal in the light of the 2022 decision, but that is a matter to be taken up separately and not within this appeal.
14. Accordingly, I conclude the unit would fail to provide suitable living conditions for its occupiers, in conflict with Policy DM15 in the *Site Allocations and Development Management Policies Plan*. Moreover, by failing in this regard it would also not be defined as good design and so would conflict with Core Strategy Policy CS08 and also with the Framework.

Other Matters

15. This building is Grade II* listed. Its significance and its special architectural and historic interest lie, in part, in the detailing and form of the older element at the front. It is also within the St Nicholas Area Conservation Area. This covers a diverse range of buildings and intervening roads and spaces in part of central King's Lynn that together reflect the evolution of this long-established town. Its character and appearance as well as its significance therefore arise from this diversity and the way the buildings reflect this history. The modern rear extension where this studio flat is proposed makes little positive contribution to either the conservation area or the listed building.
16. Neither the internal nor the external works before me would be readily perceived in the context of that older element. There would be no loss of historic fabric or plan form, and the new windows would reflect the others around the modern courtyard. Accordingly it would not detract from the building's special architectural and historic interest, it would not fail to preserve the character or appearance of the conservation area, and it would not harm the significance of either of these designated heritage assets. Other listed buildings are also nearby, but for these same reasons the proposal would not affect their settings and would not harm their significance.
17. As the unit would be on the first floor, well above any projected flooding levels in the event of a breach of flood defences, I have no evidence to show there would be a hazard in that regard.

Conclusion

18. Accordingly, having regard to the development plan taken as a whole, I conclude the appeal should be dismissed.

JP Sargent

INSPECTOR