



Appeal Decision

Site visit made on 10 April 2024

by **S J Lee BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 23 April 2024

Appeal Ref: APP/M2840/W/23/3326753

First Floor, 95 High Street, Rushden, Northamptonshire, NN10 0NZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Glendale Securities Ltd against the decision of North Northamptonshire Council.
 - The application Ref is NE/22/01328/FUL.
 - The development proposed is change of use of upper floor to C3 residential accommodation comprising 2 x 1 bed apartments and 2 x 2 bed apartments, with new front door and rear amenity space.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues in this case are the effect of the development on:
 - the living conditions of future occupants, with particular regard to daylight and sunlight, indoor space, outdoor amenity space and outlook;
 - highway and pedestrian safety, and;
 - the housing mix, having particular regard to local planning policies on the provision of flats.

Reasons

Living conditions

3. The appeal relates to the upper floor of a two-storey building which is currently in commercial use. The development would result in the creation of 4 flats. Flats 2 and 3 would be single aspect. The open plan lounges and kitchens of each flat would be served by a single north facing window. This would clearly limit the amount of direct sunlight entering the rooms and thus the main illumination would be from natural daylight.
4. The windows to these rooms are quite large. However, the rooms themselves would also be relatively deep. The areas near to the windows may receive adequate daylight. Nevertheless, I have some concerns as to whether this would be sufficient for the spaces as a whole. Without any detailed evidence to the contrary, such as a light assessment, I cannot be confident that these habitable rooms would not have an unduly gloomy and oppressive living environment, particularly in areas furthest from the window. This could tangibly diminish the living conditions of future occupants to an unacceptable degree.

5. These issues do not affect flats 1 and 4, which would benefit from additional windows in the east and west elevations respectively. There would also be a small south facing window serving a bedroom in flat 4. It is therefore likely that these flats would be served by an adequate amount of light.
6. In coming to this conclusion, I have had regard to paragraph 129c of the Framework, which states that authorities should take a flexible approach in applying policies relating to daylight and sunlight where they would otherwise inhibit making efficient use of a site. However, this is only on the proviso that it would provide acceptable living conditions. There is insufficient evidence to conclude with confidence that this would be the case here.
7. The flats would look out over the parking area and the roofs of nearby buildings. Given the space which exists between buildings there is nothing that would have an overbearing effect on outlook. The outlook is also largely what would be expected from an upper storey property within a town centre. As such, although I have concerns about daylight and sunlight for some flats, I do not consider the outlook would be so poor as to cause harm to the living conditions of occupants.
8. The Council's reason for refusal refers to the development providing cramped accommodation. Their appeal statement does not expand on this concern. There is no dispute that the flats would meet the minimum Nationally Described Space Standards. The plans indicate the kitchens and lounges would all be open plan and laid out such that they would be functional spaces. They would not necessarily be spacious but would be sufficient for the number of bedrooms provided. The flats would therefore not be so small or constrained that it would harm living conditions.
9. The development would provide an area of shared outdoor amenity space. This would be limited in scale but would provide some opportunities for sitting out and/or such things as drying clothes. I acknowledge that access to the space would not be ideal. Nevertheless, there are often compromises needed when considering the conversion of commercial floorspace to residential uses and it would still provide some defensible outdoor space for occupants to use. The area would be gated and fenced and have some potential for natural surveillance from flat 4. This should limit the potential for anti-social behaviour. I am therefore satisfied that this would be an adequate area of amenity space.
10. In conclusion on this matter, there is insufficient evidence to be satisfied that flats 2 and 3 would benefit from sufficient sunlight or daylight. This could cause unacceptable harm to the living conditions of future occupants. Notwithstanding my conclusions in terms of outlook and internal and external space provision, this would still conflict with North Northamptonshire Joint Core Strategy (NNCS) (2016) Policy 8. This seeks, amongst other things, to protect the living conditions of future occupants, including in respect of light.
11. Rushden Neighbourhood Plan (RNP) (2018) Policy H4 is referred to in the decision notice but is not relevant to the issue of living conditions.

Highways

12. The development would provide 3 formal parking spaces to the side of the building and to the rear of No 97. The Council's reason for refusal refers to the "inconvenience" of the parking arrangements. Their appeal statement refers to

this, but also to the turning circle within the site and, in reference to comments from the local Highway Authority (HA), the potential for tandem parking arrangements to displace on-site parking elsewhere. It is not entirely clear from the Council's evidence whether their concerns are primarily for the living conditions of future residents, any harm associated with displaced parking or with highway safety, including the access and whether there is sufficient space to manoeuvre. For the avoidance of any doubt, I shall consider all aspects below.

13. It appears that the area in question is already used for informal parking. The HA have suggested that a development of this scale should normally provide 7 parking spaces. I note that while the HA, and others, have raised some concern about the use of public parking for residential uses, they also conclude that spaces are currently available. The development would be relatively small and should not lead to a significant increase in demand for off-site spaces, either on the road or in public car parks. I am also mindful that any re-use of the space for commercial purposes would also generate a demand for additional parking.
14. Being within a town centre, the development is also in a highly accessible location where there would be opportunities to travel using means other than the car. This may have the potential to reduce reliance on the car for future occupants and thus the demand for parking. There is also no persuasive evidence that the lack of parking spaces would erode the vitality and viability of the town centre to any significant degree. I am therefore satisfied that there would be no unacceptable harm resulting from the number of spaces provided.
15. Two of the parking spaces would be in a tandem configuration. I have already concluded that this is unlikely to cause unacceptable harm in terms of additional parking pressures elsewhere. It would be reasonable to assume that the use of these spaces would also be controlled by the landlord, thus reducing the potential for inconvenience. In any event, I am not convinced that any harm caused in this respect would be sufficient to withhold planning permission. There also appears to be sufficient space to manoeuvre such that vehicles would be able to enter and exit the site in a forward gear. Thus, I have no particular concerns either in terms of convenience or safety.
16. The access to the road is constrained and provides limited visibility. There is no scope to improve this, but there is also no evidence to suggest its existing use has resulted in any issues. The development could intensify use of the access to an extent, but with only 3 parking spaces provided it is unlikely this would be significant. The fact this is already a vehicular access is also clear and pedestrians will already be aware of the need to take some care when passing. The development would therefore not result in a significant change for regular visitors to the town centre. If the appeal were allowed, conditions could also have been imposed to make improvements to the surface of the access. I am therefore satisfied that the access arrangements are unlikely to result in unacceptable safety risks.
17. In conclusion on this matter, the parking arrangements would not cause any harm in terms of displaced parking, highway safety or the living conditions of future residents. There would therefore be no conflict with NNCS Policy 8 which seeks, amongst other things, to ensure development ensures a satisfactory means of access and provision for parking. RNP Policy H4 is referred to in the decision notice but is not relevant to this issue.

Housing Mix

18. The Council's reason for refusal refers to the need for small flats not being robustly "defended" as required by Policy H4 of the RNP. Their evidence does not expand on this matter. Policy H4 sets out three circumstances in which flats might be considered acceptable. The first is whether there is a local need, the second relates to any constraints of the site and the third is whether it would involve the conversion of commercial floorspace. Each criterion is followed by "or". As such, only one of the criteria needs to be met to satisfy the policy's requirements.
19. The development would involve the conversion of existing floorspace. Therefore, there is no requirement in Policy H4 to demonstrate a need for flats. Accordingly, there is no conflict with this policy, which seeks to control the delivery of flats within Rushden.

Other Matters

20. The site lies within the Rushden Conservation Area. The development would have only a marginal effect on the external appearance of the building and would not diminish its commercial character. As such, I am satisfied the development would have a neutral effect on the character, appearance and significance of the heritage asset.
21. The Council's officer report refers to the site being within 2km of the Upper Nene Gravel Pits Special Protection Area (SPA). This also refers to a financial contribution being needed to mitigate any potential impact and that a "SPA fee" has been paid. No S106 agreement or Unilateral Undertaking has been submitted with the appeal and thus it is not clear how the "fee" has been secured. However, as I am dismissing the appeal for other reasons, there is no need for me to consider this matter any further.
22. The development would deliver new residential units in a sustainable town centre location. It would also make efficient use of underused floorspace and help meet any need for smaller dwellings. However, such benefits would not outweigh the potential harm to the living conditions of future occupants. While no harm has been identified in relation to such issues as noise and odours, these are neutral matters in the planning balance and weigh neither for nor against the development.

Conclusion

23. The proposed development conflicts with the development plan as a whole and there are no other considerations, as set out above, that outweigh this conflict. The appeal is therefore dismissed.

S J Lee

INSPECTOR