



Appeal Decision

Site visit made on 25 April 2024

by H Jones BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 May 2024

Appeal Ref: APP/H0738/W/23/3336079

Kentisbury, The Spital, Yarm, Stockton-on-Tees TS15 9EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andy Boylett (AMST Ltd) against Stockton-on-Tees Borough Council.
 - The application Ref is 23/0883/FUL.
 - The development proposed is the splitting of the building "Kentisbury" into six self contained apartments.
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Decision

1. The appeal is dismissed, and planning permission for the development described above is refused.

Preliminary Matters

2. Following the submission of the appeal against non-determination the Council has clarified the decision it would have taken on the application if it had been determined within the statutory time period. The Council would have refused the application, and the reasons why are set out within its appeal statement. These notional reasons for refusing the proposed development inform my main issues.
3. The appellant's submissions include an amended site layout. The Planning Inspectorate's guidance¹ provides advice on the circumstances whereby amendments proposed during the appeal process can be taken into account. Amongst its advice, the guidance states that the appeal process should not be used to evolve a scheme. However, it further advises that amendments may be accepted at the appeal stage provided that they would not make a substantial difference to the proposal or cause procedural unfairness to anyone involved in the appeal process.
4. The amended site layout accompanied the appellant's final comments. Amongst other changes, a new shared outside space for prospective occupants is proposed. This would be positioned quite closely beside a neighbouring property on The Pines. If I were to accept the revised plan, I find that it would deprive local residents the level of opportunity to consider the changes that they could reasonably expect to be afforded. This would be procedurally unfair. Therefore, I have determined the appeal on the basis of the plans which accompanied the planning application.

¹ Procedural Guide: Planning appeals – England

5. In December 2023, a revised version of the National Planning Policy Framework (the Framework) was published. I have had regard to the revised Framework insofar as it is relevant to this appeal.

Main Issues

6. The main issues are:

- Whether the design of the proposal would be acceptable, and the effects of the proposal upon the character and appearance of the area; and
- Whether appropriate living conditions would be provided for the future occupiers of proposed apartments with particular reference to their access to private outside space.

Reasons

Design, character and appearance

7. Kentisbury is a large residential property accessed from The Spital. This access is shared with another property, Spital House, which is situated to the rear of Kentisbury. The Spital is a busy thoroughfare within Yarm. Running alongside it, and other roads which meet it in the vicinity of the appeal site, there are a range of land uses. This includes school and nursery buildings, a fire station and parkland. These varied land uses and the busy nature of The Spital means that the local area exhibits a quite mixed character.
8. Even so, there are many residential properties in the area. The house types vary in design and scale, and the appellant has drawn to my attention some examples. However, many of the residential properties closest to the appeal site are traditionally designed, and they are set within spacious and verdant plots. These properties contribute positively to the character and appearance of the area. Kentisbury is quite simply designed, but features such as its chimney, rear bay, front porch and pantile roof tiles are traditional features of merit. It therefore represents an example of a large residential property exhibiting some traditional design features and, consequently, is reflective of the area.
9. Amongst other matters, policy SD8 of the Stockton-on-Tees Borough Council Local Plan (LP) requires development proposals to be designed to the highest possible standard. This policy also emphasises the need for proposals to respond positively to the surrounding character, to reinforce local distinctiveness and establish a strong sense of place. Similarly, policies within the Framework seek to ensure that development is visually attractive as a result of good architecture and would be sympathetic to local character whilst it advises that development that is not well designed should be refused.
10. In order to provide access to the first floor apartments, the porch would be demolished and an external staircase constructed. The staircase would be a large structure which would span a significant proportion of a side elevation of Kentisbury. It would have a switchback design with two balustraded flights and supporting columns. It would have a very utilitarian appearance, and it would form an unconventional and unsympathetic addition to Kentisbury which would be at odds with, and detract from, its traditional residential character.
11. In their current condition I accept that existing trees and bushes within the site and to its edges do provide effective screening so that views of Kentisbury from

adjacent highways are filtered. However, it is conceivable that there would be times when the landscaping could be cut-back, trimmed or shaped much more than it is at present. As proposed, some bushes beside what would be apartment 3, and which contribute towards screening the property, would be cut-back to provide parking spaces. I have little assurance or confidence that, in the future, the staircase would remain as well screened from The Spital and The Pines as it presently is. The staircase could, therefore, become more prominent to passers-by outside the site. Regardless, and even if the staircase remained well-concealed, it would represent an incongruous addition to Kentisbury, unbefitting to the property and amount to poor design.

12. I have no substantive evidence before me which demonstrates to me that the future occupiers of the apartments would be likely to be more transient. Nor have I been provided with any substantive evidence of the particular harms which may arise even if they were, or what harm would be likely to arise from the occupancy levels. Flatted accommodation exists in the area, but it is quite few and far between. Nothing before me indicates to me that existing flatted accommodation has caused harm to the character of the area or undermined community balance or cohesion.
13. Neither have I any reason to conclude that there are particular characteristics about the local area which would make it especially sensitive to the introduction of the development proposed. Indeed, I have already set out that the area has a quite mixed character. Therefore, the use of Kentisbury, other than as a large single dwellinghouse, would not be out of kilter with the local area. The Council has expressed concern that the proposal could set a precedent for other similar developments. However, no sites have been put to me where this is likely to take place. Moreover, each application and appeal should be determined on its individual merits.
14. To my mind, character is wide-ranging and is the combination of the elements and qualities which distinguish an area. On the one hand I have found that the use of Kentisbury as apartments would not in itself be harmful to the area. However, the external staircase is a particular feature of the proposal which represents poor design. It would be unsympathetic to Kentisbury and, in turn, it would fail to respond positively to the surrounding character. For these reasons, overall, the proposal would be unacceptable in design terms, and it would harmfully affect the character and appearance of the area. The proposal therefore conflicts with policy SD8 of the LP and the policies within the Framework I have referred to above.

Living conditions

15. The Council refer to the High Density Development: Flats and Apartments Supplementary Planning Guidance (SPG). It includes a section on amenity space provision for such developments. The SPG does not state that all flats or apartments must be provided with private outside spaces, and it acknowledges that occupiers may not seek much space. The SPG further sets out that, where a site is located near to existing public amenity spaces, the requirement to provide amenity space on-site is negotiable.
16. Of the 6 apartments proposed, the 3 on the ground floor would be provided with dedicated outside spaces. The spaces would each be enclosed by fencing and would be private. Ground floor doors serving each of these 3 apartments would open onto each of the outside spaces giving convenient access.

Consequently, the 3 ground floor apartments would be well provided for in terms of private outside space.

17. The first floor apartments would not benefit from dedicated private outside spaces. However, I noted during my visit that Leven Park provides publicly accessible parkland and recreational spaces nearby. I acknowledge that this would not provide a private space but, nevertheless, it would provide alternative open space within easy reach of the appeal site.
18. Furthermore, the site is also conveniently situated for access to the centre of Yarm. Yarm's array of services and facilities would, therefore, also be readily available to the future occupiers of the development. This would provide alternative forms of nearby leisure for occupants.
19. For these reasons, despite only some of the proposed apartments being served by private outside spaces, I find that appropriate living conditions would be provided for the future occupiers of the proposed apartments. Therefore, in respect of these living conditions, I find that the proposal complies with policy SD8 of the LP which requires development to be designed to a high standard so that it ensures suitable privacy and amenity of future occupiers. I also find that the proposal complies with the guidance on amenity spaces within the SPG I have referred to above. It also accords with advice set out within the Framework which seeks to ensure that development provides a high standard of amenity for future site users.

Other Matters

20. The Council's third notional refusal reason relates to concerns regarding wastewater arising from the development and the nutrient loading effects of this upon nearby Habitats sites – the Teesmouth and Cleveland Coast Special Protection Area and Ramsar. A substantial proportion of the evidence before me relates to this matter. If I were minded to allow the appeal, I would need to be satisfied that the proposal would have no adverse effects on the Habitat sites' integrity. However, I am dismissing the appeal because of my findings within my first main issue. Therefore, there is no requirement for me to undertake this assessment.
21. The apartments may be adequately insulated and incorporate energy efficiency measures. Appropriate parking, waste and recycling provision may have been made whilst it is proposed that the existing automated entrance gate be retained and made operable for all of the apartments. However, the absence of harm in relation to these matters is a neutral factor in my determination, and it does not weigh in favour of the proposal.
22. I note the appellant has expressed concerns and frustrations with the service which they have received from the Council. Some of this relates to the failure to determine the planning application and that, in the appellant's opinion, advice provided at the pre-application stage has, subsequently, been contradicted. However, these matters have very little bearing on the merits of the case and, therefore, are not determinative factors in my decision.

Conclusion

23. In my first main issue I have set out the reasons why the proposal would be unacceptable in design terms, and that it would harmfully affect the character and appearance of the area. Whilst I have identified that the proposal would

provide acceptable living conditions for future occupiers this does not outweigh the aforementioned harm. Consequently, the development would conflict with the development plan as a whole and there are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. Therefore, I conclude that the appeal should be dismissed.

H Jones

INSPECTOR