



Appeal Decision

Site visit made on 29 July 2024

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 August 2024

Appeal Ref: APP/R0660/W/24/3341083

91-95 Mill Street, Macclesfield, SK11 6NN

- 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 Mr S Raja (Premier Petrol Stations Ltd) against the decision of Cheshire East Council.
 - The application Ref is 23/4802M.
 - The development proposed is the partial demolition of the existing building and formation of 10 No apartments with associated external work.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in the appeal is whether or not the proposed development would provide adequate living conditions for future occupiers with particular regard to outlook, light, internal space and noise and disturbance.

Reasons

3. The appeal property is a former cinema building which lies between Mill Street and Duke Street. The front half of the building which faces Mill Street is currently a night club. This part of the building would be unaltered by the proposal. The rear part of the building, which occupies the upper floors is currently unused.
4. The proposed development would convert the rear of the building into 10 apartments on two floors. The access to the apartments would be from Duke Street with a small part of the building being demolished to enable steps down to a new entrance to be created.
5. The appeal property is surrounded by a variety of other buildings and so to provide light to the apartments, extensive use of rooflights would be made. Two of the first floor and 1 of the ground floor apartments would be served solely by rooflights. In addition, the main habitable room for the other two first floor apartments would be served only by rooflights, with the only window in the apartments being in the bedroom.
6. Whilst rooflights may ensure the apartments receive adequate light, apartments solely served by such openings would not provide future occupiers with a satisfactory outlook. Nor do I consider that adequate outlook would be provided for future residents in the apartments where the main living space is

only provided with rooflights, given that this is the room where future occupiers would be likely to spend the majority of their time.

7. In addition, the siting of some of the windows and rooflights in relation to the various surrounding properties, would also restrict the amount of light they receive and the outlook from them. This would also be detrimental to the living conditions of future occupiers.
8. The Council have highlighted that, excluding floorspace with under 1.5m headroom, two of the first floor apartments would fall below the space standards required in the development plan. This has not been disputed by the appellant. Whilst the deficit is not large, these apartments would not provide future occupiers with adequate internal space.
9. Surrounding the site are a number of late night uses. In addition, the nightclub that occupies the front half of the building, also continues underneath the rear part. Although a higher level of noise and disturbance may be acceptable for residential units in town centre locations it is still necessary to ensure that future occupiers are provided with acceptable living conditions and that the continued operation of existing businesses is not compromised.
10. At appeal stage the appellant submitted a Noise Assessment. This concluded that in order to provide satisfactory living conditions for future occupiers, significant specialist sound proofing measures would be required. Even so it is highlighted that there would remain the potential for continued adverse noise disturbance to be experienced in the ground floor flats from lower frequency noise created in the night club. Whilst the night club may not be open every night, the potential for regular disturbance from the adjacent use would not provide satisfactory living conditions for future occupiers.
11. Furthermore, it is stated that if windows are open, noise from other uses in the area would mean the internal noise levels within the apartments would exceed design guide levels. As a result, it is suggested that alternative ventilation would have to be provided. In my view, having to keep windows shut and rely on mechanical ventilation to ensure adequate noise levels are provided for occupiers is not acceptable.
12. I appreciate the physical constraints of the site and that future occupiers would have excellent access to services and public transport. However, this does not outweigh the need to provide adequate living conditions for future occupiers, and on a number of fronts the proposal would not do this.
13. Overall, I consider that the proposal would not provide adequate living conditions for future occupiers with particular regard to outlook, light, internal space and noise and disturbance. Of the policies referred to by the Council I consider the most relevant to the case are Policies SE12 of the *Cheshire East Local Plan Strategy 2010-2030 (adopted July 2017)* (LP) and Policies HOU12 and ENV15 of the *Site Allocations and Development Policies Document (adopted December 2022)* which indicate that new housing developments will not be permitted where various forms of pollution including noise are unacceptable, that developments must not cause unacceptable harm to amenities of nearby residents or future occupiers, and that where the operation of an existing business would have a significant adverse impact on future occupiers these can be suitably mitigated. The proposal would conflict with these policies as well as with the *National Planning Policy Framework* which

requires that developments should provide a high standard of amenity for existing and future occupiers.

Other Matters

14. The appeal property is a non-designated heritage asset and is within the setting of No 79-83 and No 96 Mill Street which are both Grade II Listed Buildings. As a result, the appellant submitted a heritage statement. The significance of the building lies in its architectural and historic interest associated with its original use as a cinema. This is seen most clearly in the white entrance tower on Mill Street.
15. As the proposal would not change the Mill Street elevation, the street scene would be unaltered and so I am satisfied that the appeal scheme would preserve the setting of the Listed Buildings.
16. With respect of the impact of the proposal on the significance of the appeal property, I agree with the conclusion of the heritage statement that the partial demolition and conversion would cause limited harm to the historic interest of the building. However, the benefits of the proposal in creating a viable use that would bring a vacant building back into use, together with the improvements the proposal would make to the Duke Street frontage would outweigh this limited harm. Nevertheless, overall, an absence of harm in regard of heritage is a neutral factor.
17. The Council have stated that Policy SE6 of the LP requires developers to contribute towards green space provision and in the absence of on-site provision, as is the case here, a commuted sum of £1500 per bed space is required. This has not been disputed by the appellant, but I have not been provided with an executed S106 agreement or a signed Unilateral Undertaking to secure any such contribution. However, as I am dismissing the appeal for other reasons, I have not determined whether these contributions are necessary.

Conclusion

18. For the reasons set out above, I conclude the appeal should be dismissed.

Alison Partington

INSPECTOR