



Appeal Decision

Site visit made on 29 August 2024

by G Powys Jones MSc FRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 September 2024

Appeal Ref: APP/J3720/W/24/3340288

30 Meer Street, Stratford-Upon-Avon, CV37 6QB

- 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 Yue Guo against the decision of Stratford-on-Avon District Council.
 - The application Ref is 23/02455/FUL.
 - The development proposed is erection of external private access staircase; replacement glazing throughout the upper levels; change of use of upper levels from office to dwellinghouse to create 2No residential units.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. The property is located within the Stratford-Upon-Avon Conservation Area. However, for the same reasons as set out in the Council's officer report, I take the view that the development would not harm either its character or appearance.

Main issue

3. The main issue is whether the proposed flats would provide future residents with acceptable living conditions with particular reference to internal space; outlook; light; external amenity space, smell & noise.

Reasons

4. Policy TC7 of the Stratford-upon-Avon Neighbourhood Development Plan provides that proposals for new homes within the Town Centre will be supported particularly where schemes involve the re-use of upper floors for accommodation. This reflects aspects of government policy in relation to the use of such spaces. The proposal thus has strong policy support. However, that should be considered with other development plan policy read as a whole and provisions in the Framework¹ with regard to living conditions and residential amenity.
5. The appeal property, a three-storey building, is centrally located within the busy town centre, just around the corner from Shakespeare's birthplace. Meer

¹ The National Planning Policy Framework paragraph 135(f)

Street, which has restricted vehicular access, displays a variety of commercial uses, and close to the appeal property on the ground floor are restaurants/take-aways which cook and serve hot food. The appellants have provided evidence of the existence of residential development on nearby upper floors, although that was not patently obvious to me at my visit, because curtains or blinds were drawn. Access from the street to the rear is obtained through a covered area used for parking. The small external area at the time of my visit, which seemed to be shared, was largely taken up by bins and car parking. A new staircase springing from this area is proposed, which will reduce the useable area at the rear.

6. The parties disagree about the proposed internal dimensions of the two flats. Although I didn't engage in physical measurements, judging from the plans and my observations at the site visit I am more inclined to treat the appellant's figures as the more accurate. Whilst the Council suggests that internal heights are compromised, I saw scant evidence of this – it was minimal. The Council says that the flats do not meet the national space standards². However, as the appellant contends neither these standards, or any other, have been adopted into local development plan policy, and are not prescriptive. Nevertheless, the standards act as a good guide or indicator of what comprises acceptable levels of space at a national level. To my mind, the flats would be small, and less than ideal, particularly if they were occupied by 2 rather than a single person. There would be no effective means of controlling the level of occupancy, and none has been proposed.
7. My visit took place first thing in the morning when the sun was relatively low. Despite this the internal environment was light and airy, and in the absence of any empirical evidence to the contrary, I consider that both flats would have adequate levels of sunlight and daylight.
8. The windows on the top floor of the property are set into the roof. Nevertheless, outlook is available from the rooms served by the windows, albeit that what is seen is predominantly of the adjacent roofscape. This is not unusual in a town centre location.
9. Other than limited space to provide bins and cycle, the flats would have no external amenity area where occupants could, for example, sit out or readily dry clothes. This, however, although desirable, may not be unusual in a town or city centre location, including where local policies positively encourage the use of upper floors for residential accommodation, as is the case here. Extensive areas of public open space are available within reasonable walking or cycling distance of Meer Street which residents could visit for relaxation or exercise. Accordingly, whilst I regard the absence of immediately accessible external amenity space as a disadvantage, it would be insufficient reason, in itself, to reject the scheme.
10. Since the previously dismissed appeal³ concerned with the proposed use of the upper floors as a single flat, the appellant commissioned a new noise assessment (NA) and makes fresh proposals to combat the prospect of noise adversely affecting the internal environment of the proposed residential

² Technical housing standards – nationally described space standard March 2015

³ APP/J3720/W/23/3316016 dated 27 June 2023.

accommodation. The Council's objections are based on the observations of its Environmental Health Officer. The appellant commented on these in its statement of case. The Council regarded this as new evidence, but I disagreed, and invited the Council to comment on the appellant's representations, which it chose not to do.

11. The property is susceptible to noise nuisance arising from kitchen extraction equipment and ventilation stacks which are clearly apparent from the rear windows of the property at close quarters. Both parties agree that as matters stand, significant adverse noise impacts would arise when the kitchens were in use and commercial venting was taking place, having regard to the normally applied standards. The disagreement arises over whether the property could be acceptably insulated from the effects of noise and still provide an acceptable internal residential environment.
12. The appellant proposes a mix of mitigation measures, including uprated replacement glazing throughout, internal insulation between residential and commercial uses and a ventilation system (MVHR⁴). The latter would be needed since windows would need to be kept shut when the adjacent commercial kitchens were in use. The appellant says in the original report that new windows should be openable '*..to allow for purge ventilation and emergency access to fresh air*' without further explanation as to frequency. Although some clarification is provided in the acoustic appendix to the statement of case, there is no certainty that windows will not need to be opened at times when the noise nuisance would be at its greatest.
13. In order to provide what the appellant considers as an acceptable internal environment from an acoustic standpoint residents would thus need to live in what would essentially be a sealed environment throughout the year for lengthy periods of the day. To my mind, whilst possibly an acceptable state of affairs during the winter when most windows would be kept shut for comfort, it would be far from an ideal in summer when access through open windows to fresh air and summer breezes is desirable for comfort and peace of mind. I have noted the appellant's point that the system would be configured to have a similar effect, but I am not convinced that it would be perceived as such by residents. Nor am I persuaded that the development is either desirable or necessary in planning terms in the context of the appellants point that it would prove feasible⁵ to allow windows on the Meer Street façade to remain open.

Planning balance and conclusions

14. Various factors have been taken into account in assessing the living conditions of future residents. I have found that outlook, daylight and sunlight would prove acceptable. The disadvantages of the scheme include the lack of external amenity space; that the flats would be small, particularly for 2 persons, which would not be subject to control, and that they are sited cheek by jowl with very noisy neighbours. Whilst measures could be taken to insulate residents from the worst effects of noise, it would come at a price of living in what I regard as an artificial internal environment.
15. Other considerations include that the proposed noise insulation measures, which are yet to be designed in detail, may not prove as effective as the

⁴ Mechanical Ventilation and Heat Recovery

⁵ Based on BS 8233 guidance

appellant suggests in which case the Framework's advice on the agent of change issue⁶ comes into play. Neither party suggests that the so-called 'tilted balance' is invoked. Access to the flats would be taken through an array of bins, which is less than desirable in place-making terms.

16. The policy presumption is generally in favour of this type of development. However, not all proposals of this nature are sited so close to what I would regard as unneighbourly uses whose normal operation are capable of making living conditions for future residents of the proposed so badly affected by noise, and possibly odour, as to make internal living conditions wholly unacceptable. The mitigation measures proposed do not render the resultant internal environments ideal for normal living, and, as set out previously, I have also found other disadvantages of the scheme.
17. On balance I conclude that the disadvantages of the scheme, in combination, outweigh its advantages. I therefore conclude that the living conditions of future residents taken as a whole would not prove acceptable. Accordingly, a conflict arises with those provisions of policy CS9 & CS20 of the Stratford-on-Avon District Core Strategy (CS) directed to ensure that proposals should ensure a good standard of space and amenity for intended occupiers.
18. No other matter raised in the representations is of such strength or significance as to outweigh those which led me to my conclusions.

G Powys Jones

INSPECTOR

⁶ At paragraph 193