

Appeal Decision

Site visit made on 23 September 2024

by H Marriott MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2024

Appeal Ref: APP/J0540/W/24/3341326

80 Hargate Way, Peterborough PE7 8DS

- 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 Kauser against the decision of Peterborough City Council.
 - The application Ref is 23/01547/FUL.
 - The development proposed is change of use of first floor from residential to class E barbers use and office use.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would increase opportunities for crime and antisocial behaviour in the area.

Reasons

3. Number 80 Hargate Way (No 80) is a residential flat located at first floor level above a hot food takeaway (No 60) within the local centre of Hampton Hargate. No 60 is located within a shopping parade containing commercial units at ground floor level which front onto Hargate Way. At first floor, the majority of units, including No 80 are used as flats with access from the rear via a gated undercroft leading to a rear car park in private ownership (the car park). The car park also contains a footway around part of its periphery, bin storage areas, a service / delivery area to the rear of a small supermarket and a vet car park.
4. Other than windows serving a stairwell, there are no ground floor windows to the rear of the shopping parade and front doors to the flats tend to be solid rather than glazed. Narrow first floor windows provide a limited yet important degree of natural surveillance over the car park. Windows in other buildings facing towards the car park, including the upper floors of flats on Capthorn Close contribute little towards levels of natural surveillance as windows are either set at oblique angles, too far away or partly obscured by existing trees and boundary treatments.

5. Whilst not visible in the appellant's photographs, I saw a sign at the time of my visit, attached to the undercroft which states 'No Parking. Private Car Park. No Unauthorised Vehicles' and also a sign which states 'Resident and Visitor Parking Only'. Therefore, customers of the proposed use would likely walk to the proposed access door through the undercroft from Hargate Way. Walking through the undercroft is a convoluted route away from the public highway. Consequently, this route combined with the lack of active frontage to the rear of the shopping parade would likely feel secluded for customers of the proposed use. This would be particularly the case in the dark during winter months and would not provide a suitably legible, safe or convenient access to the proposed use.
6. The appellant suggests that members of the public currently already access the car park as the security gates at the undercroft access are left permanently open. This includes to the adjacent first floor unit is in use as a beauty salon. The Council has confirmed that there is a condition of the planning permission (Council reference 02/01374/FUL) for that use, which only permits use of the beauty salon in association with the hairdressers below and that access to the first floor is through the hairdressers only. The appellant suggests that this condition is not adhered to and I saw on my site visit a small directional sign to the beauty salon adjacent to a door to the rear. If there is a breach of condition, this is a matter for the Council to investigate.
7. In any case, even if visitors to the flats and a small number of customers do use the car park to access the beauty salon, vets or other existing shops and services, the vast majority of customers are likely to use the main entrances to the front. Unlike the other shops and services, the proposed development would only have customer access to the rear. I accept that customers of the barber shop could be there by appointment only and would be there for legitimate purposes. However, with more activity in the rear car park, it could become more difficult for residents and other businesses to discern who is there only for legitimate reasons.
8. Furthermore, while the local area may be at a low risk of crime and antisocial behaviour compared to other areas, this is not to say it would be acceptable to create a situation which could increase opportunities for crime. I am also not aware that the appellant would be in a position to install measures such as a CCTV system and to control the security gate in order to fully mitigate the potential risks associated with the proposed use and the lack of active frontage and natural surveillance to the rear of the shopping parade.
9. I conclude that the proposed development would increase opportunities for crime and antisocial behaviour in the area. In this regard, the proposed development conflicts with Policy LP16 of the LP which requires proposals to demonstrate to a proportionate degree that they are safe and designed to minimise crime and antisocial behaviour, taking into account secure by design principles and to ensure public places and buildings are accessible to all. The proposed development would also conflict with the policies of the National Planning Policy Framework insofar as they require development to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and

future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Other Matters

10. The hot food takeaway at No 60 (Council reference: 23/01212/FUL) is located within the shopping parade fronting Hargate Way and can be accessed directly from the public highway and therefore any crime and anti-social behaviour effects in that instance are not comparable to the appeal proposal.
11. Competition between businesses is not a material planning consideration. Moreover, whether or not there are any covenants or restrictions on the title deeds which places restrictions on businesses or access are private matters and their existence or otherwise do not affect the outcome of any assessment of the planning merits of the proposed development in the context of this appeal. My decision has been made on the planning merits of the proposed development and any non-planning related comments made by interested parties, for example on social media, have not influenced my decision.
12. The Council identified no other harm over that listed in its decision notice including in relation to noise and parking. However, these considerations indicate the absence of harm in those particular respects rather than any benefit.

Conclusion

13. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

H Marriott

INSPECTOR