



Appeal Decision

Site visit made on 14 November 2024

by C Billings BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th December 2024

Appeal Ref: APP/M2840/W/24/3342297

Westview, 43 Kettering Road, Rothwell, Northamptonshire NN14 6JR

- 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 D Howes of Eckland Lodge Business Park Ltd against North Northamptonshire Council.
 - The application Ref is NK/2023/0079.
 - The development proposed is creation of a 7 bedroom (14 person) HMO with entrance porch, alter window to French doors, insert window and rooflights. Construction of 1 no. dwelling with associated parking/external works.
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Decision

1. The appeal is allowed and planning permission is granted for a 7 bedroom (14 person) HMO with entrance porch, alter window to French doors, insert window and rooflights. Construction of 1 no. dwelling with associated parking/external works at Westview, 43 Kettering Road, Rothwell, Northamptonshire NN14 6JR, in accordance with the terms of the application ref NK/2023/0079, subject to the conditions contained in the attached schedule.

Applications for costs

2. An application for costs has been made by Mr D Howes of Eckland Lodge Business Park Ltd against the Council. This is subject to a separate decision.

Preliminary Matters

3. The proposed development and description of development was amended in agreement between the main parties during the course of the consideration of the application. The description in the header above reflects the amended proposal and therefore differs from that shown on the original application form.

Background and Main Issues

4. The application was considered by the Council's Planning Committee with an officer recommendation to approve, subject to conditions. The Planning Committee resolved to defer the application pending a Committee site visit to view parking on site and the internal layout of the property. However, the Committee site visit did not take place prior to the submission of the appeal.
5. This appeal relates to the failure of the Council to give notice of its decision on the application for proposed development within the prescribed period. The Council has since provided a statement setting out that it would have granted planning permission for the development, subject to conditions, and that, in their

opinion, the development accords with the development plan. Accordingly, there is no dispute between the main parties in relation to the appeal proposal.

6. However, a number of concerns have been raised by interested parties about the appeal proposal. The Council's Planning Committee minutes set out the particular concerns raised by interested parties at the committee meeting, including with regard to living conditions of the occupants of neighbouring properties, in particular regard to loss of privacy and amenity and, the provision and location of parking, cycle storage and the bin store.
7. Having regard to the concerns raised by interested parties and all the evidence before me, I consider the main issues in this appeal are, the effect of the proposed development on:
 - highway safety, with particular regard to the exacerbation of on-street parking congestion and free flow of traffic in the surrounding area; and,
 - the living conditions of occupiers of adjoining residential properties, with particular regard to overlooking caused to 47 Kettering Road (No 47) and 2 Gordon Street (No 2) and loss of light and outlook caused to No 47.

Reasons

Highway safety

8. The proposed development would include the provision of 12 on-site parking spaces, with vehicular access thereto proposed from Gordon Street. From the evidence provided, the Northamptonshire County Council Parking Standards (Sept 2016) requires, 1 vehicle parking space per bedroom for HMOs and 2 vehicle parking spaces per dwelling, plus 1 visitor space for 2 bedroom dwellings. Therefore, the proposed 12 vehicle parking spaces would exceed the parking standards requirement of 10 on-site vehicle parking spaces and so, would be acceptable in this regard.
9. While concerns have been raised by interested parties in respect of existing parking congestion on local roads, as the proposed development would exceed the required on-site vehicle parking provision, the proposal would not contribute to any existing parking congestion problems on local roads. Therefore, the proposal would not affect the free flow of traffic in the surrounding area.
10. In view of the above, the proposed development would not cause harm to highway safety, in regard to the exacerbation of on-street parking congestion and free flow of traffic in the surrounding area and so, I find no conflict with Policy 8 of the North Northamptonshire Joint Core Strategy (July 2016) (NNJCS), which requires, amongst other matters, that development should ensure a satisfactory means of access and provision for parking, servicing and manoeuvring in accordance with adopted standards.

Living conditions

11. As noted from the submitted evidence and my site observations, the existing appeal building is occupied as an HMO and has an HMO licence in place for a 5 unit/6 person HMO. Additionally, the evidence provided demonstrates that planning permission has previously been granted to convert the building into an 11-bedroom HMO with single storey side extension to create triple garage in August 2021, ref. NK/2021/0036. Therefore, the principle of using the property as an HMO is established.

12. The proposed HMO would be within the confines of the existing building and primarily utilise existing openings. On the elevation nearest to No 47 a large ground floor window opening in the existing building is to be replaced with new French doors, increasing the depth of the opening only. This would not cause any additional overlooking to No 47, as there is a high boundary fence which would obscure any direct window to window visibility between the properties.
13. The proposed amended plans for the new two-storey dwelling show that in the rear elevation facing toward No 47, it would have one ground floor window and a part glazed door at ground floor, one first floor window and, two roof lights in the roof slope facing towards No 47. The fence along the boundary with No 47 would prevent any undue overlooking from the ground floor openings and its rear garden amenity space to the windows and rear garden of No 47. The proposed first floor window facing No 47 is to serve a bathroom and is to be obscured glazed. Therefore, subject to a condition to ensure this bathroom window is obscured glazed and of limited opening, it would not cause any harmful overlooking of No 47, despite its close proximity to the boundary. Additionally, due to the position of the proposed rooflights in the roof slope compared to the internal floor level, there would not be any possible undue overlooking caused to No 47 in respect of such openings.
14. The proposed new dwelling would be close to the side boundary with No 47, yet it would replace an existing single storey element attached to the host building and have a roof sloping away from No 47. While the new dwelling would be close to and visible from No 47, due to the juxtaposition of it to the north, north-westerly direction it would not harmfully affect sunlight and daylight received by No 47. Also, due to the sloping roof design and that the new dwelling would be set-in slightly from the main elevation of the existing host property/No 43 and, would be sited further away from the main upper rear windows of No 47 than the existing host building, there would be no harmful loss of outlook caused from the rear bedrooms of No 47.
15. Additionally, despite that No 47 is set at a slightly lower ground level than the appeal site, due to the design and juxtaposition of the proposed new dwelling compared to No 47 and that there is an intervening boundary fence, it would not harmfully affect outlook from the ground floor rear windows and garden of No 47.
16. The proposed new dwelling would be set away from the side boundary of the rear garden of No 2 and would have only one small triangular second floor window on the elevation facing toward No 2. There would be no direct window to window relationship between this proposed small side window and any windows in the side of No 2. Also, the window would serve non-habitable space, including the stairway and landing in the new dwelling, and would be set some distance away from the boundary. On this basis, there would be no harmful overlooking caused to the occupants of No 2, with regard to their living accommodation or rear garden amenity space.
17. Having regard to the above, the proposed development would not have a harmful effect on the living conditions of the occupiers of adjoining residential properties, with particular regard to overlooking caused to No 47 and No 2 or loss of light and outlook to No 47. Therefore, there would be no conflict with Policy 8 of the NNJCS, which requires, amongst other matters, that development should ensure quality of life and safer communities by protecting amenity by not

resulting in an unacceptable impact on the amenities of future occupiers, neighbouring properties or the wider area.

Other Matters

18. While the occupants of No 2 have raised concerns about loss of light to their property. The proposed new dwelling would be set sufficient distance away from their side boundary, so as not to cause undue loss of light or overshadowing to the rear habitable rooms or garden amenity space of No 2.
19. Beyond the side gable of No 2 there is an existing high boundary wall and then a continuing boundary fence along the shared side boundary with the appeal site. The wall would ensure no undue disturbance is caused to the occupants of No 2 as a result of the proximity of the proposed parking and manoeuvring space of the proposed development. Particularly, in appreciation of the fact that, the proposed vehicular access is in essentially the same position as the existing access to the appeal site and that there is an existing established HMO use of the site, with its car parking space located near to No 2.
20. Even though the proposed bin set down area would be adjacent to the side gable of No 2. I am satisfied that with suitable management of bins, this would not cause undue problems with regard to smells and vermin, so as to warrant refusal. Furthermore, the bin set down area is conveniently placed close to the site access, to allow better management of the bins on collection days. Also, subject to means of enclosure around the bin store, which could be controlled by conditions, there would be no harm caused to the character and appearance of the surrounding area.
21. While concerns have been raised with regard to the intensive use of the site and potential future noise and disturbance, I consider that overall, compared to the extant consent for an 11 person HMO, the proposed development would not be over intensive, so as to cause harm to the living conditions of neighbours or the character of the surrounding area. Also, the proposed plans and evidence provided demonstrates that the internal layout of the HMO would provide sufficient internal space for its future occupants.
22. Despite that existing trees have already been removed from the site, I have no substantive evidence to show that this has or would cause harm to the character and appearance of the surrounding area, nor that the proposed development would cause any harm to wildlife.
23. Concerns raised by nearby local residents in regard to impact on their property values relates to purely private interests and so, is not a consideration I have given weight to.

Conditions

24. Having regard to the advice contained within the Planning Practice Guidance and the National Planning Policy Framework, I have considered the conditions suggested by the Council and subsequent appellants' comments on such, in the event I allow the appeal. I have amended some of the wording of the suggested conditions to be more precise and consistent and, to accord with the aforementioned guidance.
25. In addition to the standard implementation condition, it would be necessary for the avoidance of doubt and in the interests of certainty to define the plans with

which the scheme should accord. A separate condition regarding the external materials of the new dwelling and alterations to the host building is not necessary, as the proposed plans set out that these are to match the existing. Although, as no details of the proposed surfacing materials for the parking and manoeuvring and other areas of hardstanding within the site area is shown on the plans, a condition is necessary in regard to such, to ensure the appropriate appearance of the development and that it would be in keeping with the character and appearance of the host property and the surrounding area.

26. Conditions with regard to the provision of suitable boundary treatments are necessary to protect the character and appearance of the surrounding area and the living conditions of occupiers of immediate neighbouring properties. Also, while a condition is required to ensure the first floor rear facing window in the proposed new dwelling is of limited opening and obscurely glazed to protect the living conditions of No 47. Due to the distance separation to neighbouring property and that the side triangular window would serve a non-habitable room on the landing and stairway, a condition is not necessary to ensure this window is obscurely glazed to protect the living conditions of neighbouring occupants.
27. To ensure appropriate landscaping, and that the development assimilates well with the character and appearance of the surrounding area, a condition requiring details of landscape planting to be submitted, agreed, and retained thereafter would be appropriate and reasonable. The requirements of such condition would need to be before significant development advances on site, rather than prior to first occupation, to ensure such is considered as an integrated part of the development scheme.
28. Conditions to ensure the appropriate provision and retention of car parking and cycle parking are necessary, in accordance with the requirement of Policy 8 of the NNJCS and the Northamptonshire County Council Parking Standards (Sept 2016). This includes details of appropriate covered cycle parking is provided within the appeal site in accordance with the parking standards, which show that 7 spaces are required for the HMO and 2 spaces for the new 2-bedroom dwellinghouse.
29. As I have no substantive evidence with regard to any particular concerns raised in respect of the drainage for the proposed development, I am satisfied that such matters could be appropriately dealt with by other non-planning legislation, without the need for a planning condition in respect of such. However, to protect the living conditions of neighbouring residents, it would be appropriate and necessary to include a condition related to a construction method statement, including the hours of construction in respect of the proposed new dwelling. Although, a separate condition regarding other audible works in respect of the proposed development at the site boundary would not be precise nor reasonable, and so would not meet the relevant tests for conditions.

Conclusion

30. For the reasons given above the appeal should be allowed and planning permission is granted.

C Billings

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with drawing title and Nos: Proposed First & Second Floor Plans E/KR/22/005D; Proposed Elevations Sheet 1 of 2 E/KR/22/006D; Proposed Elevations Sheet 2 of 2 E/KR/22/007C; Location and Block Plan ref. E/KR/22/008C; Proposed Site Plan ref E/KR/22/003B; Proposed Basement & Ground Floor Plan E/KR/22/004B; Proposed First and Second Floor Plans E-KR-22-005-C; Proposed Elevations (north & south) E-KR-22-006-C; and, Proposed Elevations (west & east) E-KR-22-007-B.
3. No works or development associated with the demolition and construction of the new dwellinghouse hereby permitted shall commence until details of a Demolition and Construction Method Statement has been submitted to and approved in writing by the local planning authority. This shall include that no works or development, including deliveries, is to take place outside the hours of 08.00 to 18.00 Monday to Fridays inclusive and 08.30 and 13.30 on Saturdays and not at any time on Sundays or Public or Bank Holidays. The development shall thereafter be carried out in accordance with the approved Statement for the duration of any demolition or construction works.
4. No development above slab level hereby permitted shall take place on site until a scheme for boundary treatments and screening around the bin store area has been submitted to and approved in writing by the Local Planning Authority. This shall include the positions, height, design, materials, and type of boundary treatments and bin store screen to be erected. The development shall not thereafter be occupied until the approved scheme for boundary treatments and bin screening has been implemented in accordance with the approved details.
5. No development above slab level hereby permitted shall take place, until a scheme of hard and soft landscaping has been submitted to and approved in writing by the local planning authority. The scheme shall include details of the materials to be used for all areas of hardstanding and the species, planting sizes, spacing and numbers of trees and shrubs to be planted. The hard landscaping works shall be completed in accordance with the approved details prior to the first occupation of the development. The approved soft landscaping shall be carried out in the first planting and seeding seasons following the first occupation of the buildings or completion of the development, whichever is the sooner. Any trees or plants approved as part of the soft landscaping scheme which within a period of 5 years from the date of completion of the development, die, are removed, or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
6. No development above slab level hereby permitted shall take place until a scheme for 9 secure and covered cycle parking spaces within the site has been submitted to and approved in writing by the local planning authority. The spaces shall be provided prior to the first occupation of the development

in accordance with the approved details and shall, thereafter be retained for the lifetime of the development.

7. The first floor bathroom window in the rear south facing elevation of the dwellinghouse hereby permitted, shall be fitted with obscured glazing and no part of that window which is less than 1.7 metres above the floor of the room in which it is installed shall be capable of being opened. Once installed, the obscure glazing shall be retained thereafter for the lifetime of the development.
8. The vehicular access and parking spaces hereby permitted shall be provided in accordance with the details shown on the approved plans prior to the first occupation of the development and shall be retained and kept available for the access and parking of vehicles for the lifetime of the development.

End of Schedule