



Appeal Decision

Site visit made on 29 November 2024

by **J Somers BSocSci (Planning) MA (HEC) MRTPI IHBC**

an Inspector appointed by the Secretary of State

Decision date: 18 December 2024

Appeal Ref: APP/J0540/W/24/3346709

Land located at Crawthorne Street, Peterborough.

- 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 B Lessels (C30 Developments Ltd) against the decision of Peterborough City Council.
 - The application reference is 23/01627/OUT.
 - The development proposed is described as 'Outline application with some matters reserved for a detached dwelling.'
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Decision

1. The appeal is dismissed.

Procedural Matter

2. According to the Appellant's Statement of Case (SoC) the application was originally made in outline with all matters reserved with the Appellant feeling aggrieved that they were requested to submit more matters as the Council did not feel that they had enough information to assess the proposal. The legislation¹ allows the Council to request further matters that are considered necessary where in this particular case the Council requested the matters of Scale, Access, and Layout to be considered, with Landscaping and Appearance to be considered as Reserved Matters. Having visited the site and seen the appeal documentation, I also confirm that it was necessary for the Council to consider the matters of Scale, Access and Layout, and I have considered this appeal on the same basis.
3. Taking the above into account, I have taken the description of the development from the Council's Decision Notice. I note that the same description is included on the Appellant's Appeal form.
4. I note that an indicative elevation plan showing the appearance of a dwelling has also been provided to which the Council has had regard. I confirm that I have also dealt with the appeal on this basis.
5. I note that the existing and proposed site plan² incorrectly identifies the car park for access as belonging to No.s 34, 36, and 38 Monument Street which has also been

¹ Section 5(2) Town and Country Planning (Development Management Procedure)(England) 2015

² Existing and Proposed Site Plans, Drawing No.231422-02, Dated Nov 2023

referred to by the Local Highways Authority³ in their SoC in identifying the site. For clarity, as identified by the Council and from what I saw on my site visit, these properties are actually 21A, 21B, and 21C Monument Street. I shall refer to the properties on this basis.

Main issues

6. The main issues are:

- Whether the appeal site would provide a suitable access for pedestrians and vehicles;
- The effect upon living conditions of surrounding and future occupiers, with particular regard to access to light and sense of enclosure;
- The impact upon protected species that may be occupying or utilising the site;
- The impact upon trees; and
- The impact upon drainage of the surrounding area.

Reasons

Access

7. The appeal site consists of an irregular shaped parcel of land located to the rear of dwellings fronting Crawthorne Street, Monument Street, Eastfields Road and Jordan Mews. Currently the site is landlocked and has fencing and walls around the site. In order to be accessed the appeal site would require access over private land such as Jordan Mews, Crawthorne Street (where access is proposed) or Eastfields Road. The site is overgrown with vegetation, with the Site Plan indicating that there is a derelict timber building on site.
8. The surrounding area is densely developed with Victorian terraced housing from the late nineteenth and early twentieth century situated on narrow roads that do not contain any on-site parking facilities. A number of traffic calming measures such as chicanes, size restrictions, bollards, reduced carriageway widths and one way roads have been implemented in order to provide traffic calming measures. The access would be taken from the parking court to the rear of No.s 21 A, B and C Monument Street which is unusual given that parking courts are not a common feature and take up all of these occupant's amenity space. The parking court to the rear of 21A, B, and C had been design to allow the driving into a space at the rear and the reversing from the space so that they can drive from the car parking area in a forward direction.
9. Upon my site visit, due to the traffic calming measures, I witnessed cars parked in allocated parking bays as well as between bollards on pavements which made manoeuvring the surrounding streets very difficult for vehicles and pedestrians. Streets like Monument Street are two-way but the width only permits one vehicle at a time whilst oncoming vehicles wait. It was clear to me that whilst traffic was low speed there were a number of problems concerning traffic flow and highway safety within this area.

³ Statement by Claire Dowsett, Engineer (Highway Control)

10. The Peterborough Local Plan (LP) Policy LP13 seeks that development provides appropriate provision for the transport needs that it will create, for example the appropriate provision for safe, convenient and sustainable access.
11. Whilst the red line includes part of the private car parking court to the rear of 21A,B, and C, I note that there is no formal agreement between the appellant and the landowner/s of the parking court for the provision of a pedestrian and vehicular linkage to and over the parking court which would be necessary in order to achieve an acceptable access from the appeal scheme to Crawthorne Road. Without this pedestrian or vehicular linkage, the appeal site would be landlocked. There is no guarantee that the pedestrian or vehicular link could be achieved through reserved matters as there is no evidence before me to suggest that the Council could reasonably require the adjacent landowner to provide the pedestrian and vehicular links to the appeal site if it did not wish to do so.
12. Whilst I am aware that a Grampian condition could be imposed, in this particular case, I do not believe that such a condition would meet the guidance set out in the Planning Practice Guidance that such conditions should not be used where 'there are no prospects at all of the action in question being performed within the time-limit imposed.' As set out above, there has been no evidence provided to suggest that the landowner/s of the parking court would be prepared to provide the vehicular/pedestrian link to the appeal site within their land.
13. I note comments from the appellant with regards to a suitable access being possible, however due to the lack of any indication from the neighbouring landowner that the delivery of the pedestrian and vehicular access is possible, this does not give me certainty that the appellant's links as shown on the plan will or can actually be delivered.
14. Additionally, there are concerns from the Local Highway Authority that the parking court is a substandard access and that appropriate visibility splays could not be provided as this would require the additional demolition of boundary walls that are outside the red line. There are also problems towards highway safety from increased usage of the parking court, highlighted by the Local Highway Authority with regards to two vehicles being able to pass each other within the parking court, and impairments to visibility which may also result in further vehicles reversing onto the public highway.
15. The Appellant has suggested that the Council has permitted other cases⁴ and should apply the same considerations to the appeal site. Whilst I have not been presented with these cases in the appeal documents, the Council in their SoC highlight that these cases are materially different in their considerations, such as the appeal site being an intensification of usage whereas examples were not, and an example being a permission in principle decision that did not require consultation with the Local Highway Authority. As such these examples do not alleviate the concerns raised with regards to the proposed scheme. Given all of this, and in conclusion of this matter, the proposed scheme would intensify the usage of a substandard access, and along with no confirmation that an access is actually possible, would cause detriment towards highway safety for pedestrians and vehicles. Consequently the proposal would be contrary to LP Policy LP13.

⁴ Council Planning Refs 22/01296/FUL; 22/00715/PIP; 20/00052/OUT
<https://www.gov.uk/planning-inspectorate>

Living conditions

16. According to the Appellant's Design and Access Statement, the proposed scale of the development would be single storey with a ridge height under 6 metres tall. The layout of the dwelling would be positioned to the centre of the site facing towards Monument Street with a reasonably sited rear garden and front garden. The main concerns raised by the Council in their Officer Report arise from impacts from overlooking and sense of enclosure towards the rear of properties in Jordan Mews.
17. Given the dwelling would be single storey, and the positioning and heights of fences along the southern boundary, I am not convinced that overlooking would occur in this instance towards dwellings along Jordan Mews. The rear gardens of Jordan Mews are not very deep, but there is sufficient setback from the rear of the proposed dwelling to the rear boundaries of Jordan Mews. This setback would be sufficient to remove and adverse detriment caused to living conditions from sense of enclosure.
18. I note that the Reasons for Refusal highlight overshadowing and loss of light, however the Planning Officer Report does not detail this concern and states in the assessment that no loss of light or overshadowing would occur. Having seen the plans, I agree that the scale and layout of the proposed dwelling would not lead to overshadowing or a loss of light to neighbouring or future occupiers.
19. The final concern regarding living conditions relates to overlooking of the proposed site. As the land is back-land, it would be overlooked on all sides with two storey dwellings on each side of the appeal site. Whilst dwellings to the north, east and west would have a setback of over 15 metres to the first floor windows of the dwellings, the dwellings along Jordan Mews to the south would be setback 13.3 metres from the rear elevation and 8.4 metres away from the rear boundary. Given that the proposed dwelling has residential development in all directions, there would be an increased sense and high level perception of overlooking from future residents from using the front or rear gardens. Whilst the setback from first floor might assist in mitigating some overlooking, this would not be the case for properties along Jordan Mews who would have close and direct overlooking of the rear garden of the proposed dwelling.
20. Taking the above into account and in conclusion of this matter, I have agreed with the Appellant that based upon the scale and layout, that the proposal would not cause an adverse loss of light or sense of enclosure to occupiers along Jordan Mews. The perception of overlooking is however highly elevated from being within this back land location, and future occupiers would experience an increased perception of overlooking in all directions and in particular to the south from properties in Jordan Mews. This would cause significant detriment to future occupiers. Whilst I have agreed with some matters, this would not be sufficient to overcome concerns regarding overlooking which would be contrary to LP Policy LP17 which seeks to achieve development that does not cause adverse detriment to living conditions.

Protected Species

21. LP Policy LP28 seeks that development protects the biodiversity and geological value of land and buildings and minimises harm to or loss of environmental features, such as trees, hedgerows, woodland, wetland and ponds. The application seeks to establish the principle of development of the site so there is a need to establish a

baseline of the constraints from a natural environment perspective, such as protected flora, fauna and the ability to provide a net gain in biodiversity. Given that there is no information presented within the appeal as to the baseline measure of biodiversity of the site, there is no indication as to whether the site of the dwelling is suitable in principle or the potential effect that developing the site could have upon protected species (if any).

22. Whilst the site is small, it may be capable of providing biodiversity net gain, without any baseline information it is not possible to establish whether the principle of the development is appropriate. Taking the above into account, based on the information provided it has not been demonstrated that the proposed development would not cause adverse detriment to natural environment, and would therefore be contrary to LP Policy LP28 as described previously.

Trees

23. Whilst only views of the appeal site could be gained, it appeared that there was a large amount of shrubs on site with trees appearing to be located to the rear gardens of properties along Monument Street and Eastfields Road. It would not appear that the trees are in the way of the development, however no information has been submitted with the application or this appeal with regards to any impacts upon trees. Whilst I appreciate that this reason for refusal could be conditioned on a decision, there is however a need to establish the baseline of evidence which should then facilitate the development of the site. The site plans do not indicate locations of existing trees or undertake any form of assessment of trees on site (if any). As such, based on the evidence before me, the proposal has not demonstrated that it can be developed without adverse impacts to trees on site or within the adjacent properties. Consequently the proposal would be contrary to LP Policy LP29 which seeks to facilitate the protection of trees and vegetation and reduce their loss.

Drainage

24. LP Policy LP32 seeks considerations with regards to water management. In accordance with this Policy, all new development should be able to demonstrate that water and drainage is available to support the development and that measures are in place to deal with consumption of water and water efficiency. Based on the information presented within the appeal documents, there is no information pertaining to this reason for refusal. Whilst I appreciate that this reason for refusal could be conditioned on a decision, there is however a need to establish the baseline of evidence which should then facilitate the development of the site. Without such information, the proposal would be made contrary to LP Policy 32.

Conclusion

25. For the reasons given above, the appeal is dismissed.

J Somers

INSPECTOR