



## Appeal Decision

Site Visit made on 9 November 2021

**by R E Jones BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 09 February 2022**

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**Appeal Ref: APP/R3325/W/21/3275984**

**18 Abbey Street, Crewkerne, Somerset TA18 7HY**

- 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 First Court Accommodation Ltd against the decision of South Somerset District Council.
  - The application Ref 19/00953/FUL, dated 20 March 2019, was refused by notice dated 3 March 2021.
  - The development proposed is 2 flats replacing vacant rear extension.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for Costs was made by First Court Accommodation against South Somerset District Council. This application is the subject of a separate Decision.

### Preliminary Matters

3. A previous appeal decision<sup>1</sup> at the site dismissed the development of residential accommodation and rear additions to the building. My decision has taken into account that previous decision and the drawings that related to it.
4. The appeal site is located adjacent to several listed buildings while also within the Crewkerne Conservation Area (CA). Accordingly, the Act<sup>2</sup> requires that special regard is given to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses, and of preserving or enhancing the character or appearance of a conservation area.

### Main Issues

5. The effect of the proposed development on the character and appearance of the CA and the setting of adjacent listed buildings; the living conditions of future residential occupiers in terms of noise and disturbance, daylight and external amenity space provision; and the integrity of the Somerset Levels and Moors habitats sites.

### Reasons

*The significance of the CA and adjacent listed buildings*

6. The CA's special interest includes its remarkable and coherent historic townscape, with extensive groups of historical buildings. These buildings have experienced

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<sup>1</sup> APP/R3325/W/17/3192686, dismissed 28 March 2018

<sup>2</sup> Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act)

very little modern intrusions or architectural detriments. The appeal property is a large, detached building with Tudor Revival details, and according to the Crewkerne Conservation Area Appraisal (CCAA) is one of over 60 key buildings and structures which have particular historical interest or architectural merit.

7. The property's rear façade incorporates a distinctive outrigger with chimney stack, an off-centre gable and windows of varying size and arrangement. Those features generally align with the architectural style of the building. The rear does not have the same grandeur or detailing as the front elevation facing Abbey Street, yet this largely intact secondary façade reinforces the architectural understanding of the building, particularly given its prominence from the public car park to the side and rear. Therefore, in so far, as it relates to this appeal, the CA derives some of its significance from the largely unaltered appearance and historical aesthetic of the host property.
8. There are several Grade II listed buildings lining Abbey Street which are in close proximity to the appeal site. Those on the northern frontage include The Chimes and 22 Abbey Street. On the opposite side are Nos 3, 6, 8 and 10 Abbey Street, the Factory to East of No 3 and the Old Shirt Factory. These buildings derive a great deal of their significance from their cohesive alignment and the historic detailing they share with adjoining frontage buildings along Abbey Street. In terms of the appeal building, its contribution to the setting and therefore significance of those listed buildings either side and opposite, is primarily derived from it being one element of the frontage that reinforces the historical character of the street.

*The effect on the CA and the setting of the listed buildings*

9. The proposal would have a deep mono-pitch roof projection that would extend across most of the appeal building's rear elevation. In this regard the proposal would lack subordination to the host property and dominate its rear. Furthermore, it would cut across the rear gable and result in the loss of the distinctive outrigger and a number of small window openings, eroding some of the building's innate character. Whilst the proposal has a somewhat traditional form with matching materials, its deep mono-pitch roof profile and domineering scale would not harmonise with the architectural style and historic character of the host property. The proposal's effect would therefore be detrimental to the character and appearance of this key building and its contribution to the CA's significance.
10. It is acknowledged that the appellant has sought to amend the scheme previously dismissed at appeal, by altering the roof profile and reducing its projection from the side and rear. Nevertheless, these alterations have not convinced me that the CA's character or appearance would be preserved or enhanced.
11. The appellant considers that the proposal would resolve the somewhat unkempt and overgrown appearance at the site's rear. But this could be addressed in ways other than the proposal before me.
12. The special features of the listed buildings nearby would primarily be experienced at close range from street level along the southern and northern sides of Abbey Street. The proposed development would be set behind the appeal property's frontage and below its ridgeline, such that it would not be immediately apparent from Abbey Street. Accordingly, it would not disrupt the cohesiveness of the listed buildings along the frontage or harm their settings.
13. Therefore, and notwithstanding my findings in respect of the effect on nearby listed buildings, the proposal would harm rather than preserve or enhance the character and appearance of the conservation area. It would be contrary to Policy EQ3 of the South Somerset Local Plan (2006-2028), adopted March 2015 (the Local Plan) and

the aims of Paragraph 197 of the National Planning Policy Framework (2021) (the Framework), which together are concerned with heritage assets and the preservation and enhancement of their significance, character, setting and local distinctiveness.

*Living conditions of future occupiers*

14. A bedroom window and two living room windows serving the proposed ground floor flat would face the 5 parking spaces proposed. These windows would be located a very short distance from those spaces. Given the proximity of the windows to the parking spaces, the flat's future occupiers would inevitably experience audible noise and disturbance from engines, vehicles manoeuvring, loading and unloading and car doors closing. Additionally, vehicle lights would shine directly at the flat's windows. These occurrences would likely be more intensive at the start and the end of the day when residents would be leaving. The flat's proximity to the spaces would expose future occupiers to daily disturbances that would be encroaching and unpleasant in nature. The effect of this would create an unattractive living environment that would be harmful to future occupiers of the flat.
15. The disturbance caused by vehicle noise and lights shining into the ground floor flat's habitable rooms could be mitigated to some extent by boundary treatment. But the proximity of where the boundary would need to be erected, together with its height could have an unacceptable effect on the living conditions of future occupiers of the flat by limiting daylight to the rooms. Therefore, a boundary enclosure condition would be unlikely to address my concerns, and if anything, it could add to them.
16. The appellant refers to the lack of objection on this matter in the previous appeal decision. However, that case related to a different design and parking layout at the rear of the building. Also, it appears from floor plans, relating to that scheme, that there were no habitable room windows facing some of the parking spaces. Accordingly, the scheme before me differs and I have assessed the changes on their individual merits.
17. In terms of external amenity provision, I have not been referred to any specific guidance on space requirements, nevertheless, Policy EQ2 of the Local Plan refers to the creation of quality places when considering new development, while Paragraph 130 of the Framework requires proposals to function well and incorporate a high standard of amenity for future users.
18. An area of communal external amenity space primarily to the appeal building's west is indicated on the drawings. This would also be used for storage and clothes drying and be made available to the occupiers of the proposed flats as well as 6 other flats previously approved within the appeal building.
19. To access the space, however, future occupiers would need to leave their flats via a staircase and hallway, then enter through an external security door off the parking forecourt, followed by access through the secure waste/cycle parking compound. Although not a long route for future occupiers, it would be protracted and inconvenient, especially for activities such as clothes drying. Therefore, the communal garden would be in a poorly designed space that would be disconnected from the internal living areas of the proposed flats and make it undesirable and unappealing to future occupiers.
20. The communal space is of a size that would offer suitable functionality for future residents of the approved and proposed flats. However, this would not overcome my concerns in relation to the space's design and proximity to the proposed flats. Moreover, the immediacy of the communal space to the bedroom window at the

- ground floor would result in occupiers of that unit being exposed to unacceptable levels of noise and disturbance from activities associated with the space.
21. The appellant suggests that future occupiers would have the choice on whether to live at this location. Be that as it may, the Local Plan and the Framework both advise that new housing should ensure a high standard of amenity for existing and future occupiers. In this respect the proposal falls short of that standard, for the reasons given.
  22. I have been referred to a scheme approved by the Council at the 'Old Shirt Factory', which the appellant considers to be unacceptable insofar as it relates to the living conditions of its residents. Yet, as I do not have the full details that led to the Council's approval of that scheme, I cannot therefore consider it as a compelling precedent.
  23. In view of the above, the proposed development would result in unsatisfactory living conditions for future residential occupiers in terms of noise and disturbance, daylight and external amenity space provision, that would be contrary to Policies EQ2 and HW1 of the Local Plan and Paragraph 130 of the Framework. Together, these require, in part, that the external and internal space needs of future occupiers are of a high-quality design and standard of amenity.
  24. The Council's refusal notice refers to Policy EQ3. As this relates specifically to heritage matters, I have not used it in my conclusion above.

#### *Habitat sites*

25. The appeal site falls within the river catchment flowing into the Somerset Levels and Moors Special Protection Area (SPA) and Ramsar Site which is listed under the Ramsar Convention. The Ramsar Site is designated for its internationally important wetland features including the floristic and invertebrate diversity and species of its ditches. At present, the important features of the Somerset Levels and Moors Ramsar Site are considered unfavourable, or at risk, from the effects of eutrophication caused by excessive phosphates. Additional residential properties within the catchment have the potential to add to phosphorous nutrient loads through sewage discharge, contributing to the existing unfavourable condition and further preventing the site from achieving its conservation objectives.
26. Due to the location of the site, the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires the decision maker to undertake an Appropriate Assessment (AA) where there are likely significant effects from the proposal, either alone or in combination with other plans or projects. This responsibility falls to me in the context of this appeal.
27. The proposed development would result in two additional residential units. In my view, and taking a precautionary approach, the proposal may have an effect on the levels of phosphate reaching the designated site thus contributing to its existing unfavourable condition, and further preventing the site in achieving its conservation objectives. For this reason, I consider that the proposal would be likely, alone and in combination with other plans and projects in the area, to have a significant effect on the Somerset Levels and Moors Ramsar Site.
28. The appellant's evidence indicates that the public foul sewer can accept the additional flows from the proposed flats. However, that only confirms that there is sufficient capacity available within the existing network. It does not clarify what effects the additional foul water discharges would have on nutrient levels within the wider river catchment. And whilst the appellant makes assurances that the

Somerset Levels needn't worry about the addition of two flats, there are no specific strategies before me that would affirm that position.

29. Therefore, in the absence of mitigation the proposal would result in a significant adverse effect on the integrity of the Somerset Levels and Moors habitats sites. Accordingly, it would conflict with Local Plan Policy EQ4 and EQ7, which requires that development must not risk the integrity of internationally, nationally or locally designated wildlife sites. It would also fail to accord with Paragraph 180 of the Framework relating to the protection of important habitat sites.

### **Other Matters**

30. The Council's evidence indicates that they cannot demonstrate a five-year land housing supply. Thus, the presumption in favour of sustainable development set out in Paragraph 11 d) of the Framework is engaged. However, despite the deficiency in the housing land supply, Footnote 7 of the Framework indicates that the presumption in favour of sustainable development does not apply where the application of policies that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. CAs, SPAs and Ramsar sites are examples of such areas/assets and the proposal is contrary to the relevant policies of the Framework regarding these.

### **Planning Balance and Conclusion**

31. I have found that the proposed development would harm the character and appearance of the CA, the living conditions of future occupiers and the integrity of the Somerset Levels and Moors habitats sites.
32. Paragraph 199 of the Framework advises that when considering the impact of development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It goes on to advise that significance can be harmed or lost through alteration or destruction of the heritage asset or within its setting. Given my findings above, I find the harm to be less than substantial in this instance but nevertheless of considerable importance and weight. Under such circumstances, paragraph 202 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
33. I acknowledge that the development would bring 2 No, one-bedroom flats in a sustainable location close to the town's services. This attracts significant weight as a public benefit. However, this would not outweigh the harm identified above to the significance of the CA, the conservation of which the Framework indicates that great weight should be given. I conclude therefore that the proposal would fail to preserve the special character of the CA. This would fail to satisfy the requirements of the Act, paragraph 197 of the Framework and it would not be in accordance with the development plan.

*RE Jones*

INSPECTOR