



Appeal Decision

Site visit made on 7 February 2020

by T A Wheeler BSc (Hons) T&RP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 March 2020

Appeal Ref: APP/H4505/W/19/3239200

1 - 5 Reay Street, Bill Quay, Gateshead NE10 0TY

- 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 David Simpson against the decision of Gateshead Council.
 - The application Ref DC/19/00686/FUL, dated 18 June 2019, was refused by notice dated 7 August 2019.
 - The development proposed is x2 New Build dormer bungalows and extension to 5 Reay Street.
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Decision

1. The appeal is allowed and planning permission is granted for x2 New Build dormer bungalows and extension to 5 Reay Street at 1 – 5 Reay Street, Bill Quay, Gateshead NE10 0TY in accordance with the terms of the application, Ref DC/19/00686/FUL, dated 18 June 2019, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural Matters

2. The appellant has submitted amended plans with his appeal showing 2 alternative options for the proposed dwellings, one including ground floor windows in the rear elevation of the units, one without. In both cases a partition wall between the proposed kitchen/dining area and living room would be removed. The amended plans have not been the subject of further consultation. However, I am satisfied that no prejudice would occur to any interested parties since the amendments relate to the future living conditions of the occupiers of the proposed dwellings. I therefore base my decision on the amended plans as the proposed development is not changed to an extent that all those with an interest in the application should have an opportunity to comment.
3. The Council draws my attention to the emerging local plan, Making Spaces for Growing Places¹ (the emerging plan) which has passed examination stage and is expected to be adopted in the Spring/Summer 2020. The Council suggests I attach limited weight to policies in the emerging plan since it is undertaking some minor modifications which are yet to be consulted on and I agree with that approach.

¹ Making Spaces for Growing Places Local Plan Document for Gateshead Submission Draft Plan October 2018 and Schedule of Proposed Modifications March 2019

Main Issues

4. The Council has no objection in principle to the proposal given the allocation of the site in the development plan, and I see no reason to take a different approach.
5. In light of this, the main issues are the effect of the proposed development on:
 - The character and appearance of the area;
 - The living conditions of the occupiers of existing dwellings at 1 – 5 Reay Street; and
 - The living conditions of the future occupiers of the proposed dwellings.

Reasons

The proposal

6. The appeal site forms part of land to the rear of 1 – 5 Reay Street, a terrace of 5 dwellings formed from the conversion of a former public house, granted planning permission in 2017. The existing properties are a mix of 2 storey and 1 storey houses, with rooms in the roofs. The proposal would add 2 further dwellings to the rear of the existing houses, creating an 'L shaped' arrangement linked to the existing building by a ground floor extension to no 5. The proposed dwellings would each have 3 bedrooms and bathroom at first floor and, under the amended plans, a combined kitchen, dining and living area at ground floor. The dwellings would be faced in natural stone, have a pitched, tiled roof to the rear and full height dormer to front, and in terms of elevational treatment would be similar in style to the existing development.

Character and appearance

7. Given the position of the proposal to the rear of the existing properties there would be little impact on the character and appearance of the wider area due to limited visibility of the site from the street. The surrounding area comprises vacant land falling towards the River Tyne, landscaped areas along the route of the Keelman's way cycle route, a public house, housing at Hoyson Villas, a scrap yard and industrial uses towards the river. A defining characteristic of the area is the views across and along the River.
8. It has been suggested that the proposed dwellings would not sit comfortably with no 5, and would fail to make a positive contribution to the established character and identity of the locality. However, the proposal would appear as an extension to the existing terrace of houses, and whilst not forming a courtyard, an area of open space would be retained on the side of the site facing the river, with open views to the north and east. In part the character and identity of the immediate area stems from the existing development at 1 – 5 Reay Street, which the proposal would complement. Consequently, I am not persuaded by the argument that the proposal would be in conflict with the local character or identity of the area.
9. It is also pertinent to note that the historic photograph and plans submitted show that historically there was development to the rear of the buildings that front onto Reay Street, therefore the proposal has some affinity with the local character and identity of the area.

10. The Council refers me to the National Design Guide² (NDG). The NDG reinforces the Framework and sets out ten characteristics of good design. For the reasons given, the proposal would relate well to the site and its wider context, and would be compatible with the local identity and character of the area, in which Reay Street forms a small pocket of development in the wider riverside setting. The built form that is proposed has the potential to create a development with an enhanced sense of place, compared with the existing situation where the site does not represent an effective use of land.
11. I therefore conclude that the proposal would not harm the character and appearance of the area or the existing property and would be in conformity with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030³ (the Core Strategy) and Policy ENV3 of the Gateshead Unitary Development Plan (2007) (the UDP) and MSGP19 and MSGP25 of the emerging plan which require, amongst other things, that development responds positively to local character including factors such as scale, massing, height, materials and views and vistas, and the Framework, and the associated NDG, which seeks to achieve well designed places, and development which adds to the overall quality of an area, is visually attractive, and sympathetic to local character.

Living conditions of existing occupiers

12. The existing plans which accompanied the appeal show no 5 as having 3 bedrooms and a bathroom at first floor and at ground floor a kitchen living area and dining room. Under the proposal, the dining room area would be extended to link with the flank wall of the proposed units, whilst at first floor French windows would be provided leading onto a small rooftop terrace. The living room area at ground floor, which has full length French windows, would face on to the flank wall of the proposed units at a distance of approximately 5m.
13. Whilst this would limit the outlook from the existing living room area, a small enclosed yard/patio would be created. From either the new roof terrace, or the new room at ground floor, there would be views towards the river. Given the separation between the existing rear wall of no 5 and the proposed side wall of the proposed dwellings, and the size of the retained French windows and windows in the proposed extension, sufficient daylight would be present in the ground floor rooms of no 5 to ensure that living conditions were not unacceptably compromised.
14. Whilst the presence of the side wall of the proposed dwellings, extending across the full width of no 5 and slightly across the rear elevation of no 4, could be considered cramped, the provision of the additional living accommodation with views towards the communal open space and river would have a positive effect which would counter-balance any perceived loss of outlook from the retained French windows.
15. I have also considered the loss of outlook to the existing bedrooms within no 5. Under the proposal, the 2 existing bedrooms to the rear elevation would be combined as one. There would be some loss of outlook, however, in the case of the northmost window, the outlook would only be partially obscured due to the pitch of the roof in the proposal. In the case of the other window, the loss of

² National Design Guide, Ministry of Housing, Communities and Local Government. Published October 2019

³ Adopted March 2015

outlook would be greater since the window would face towards the side wall of the proposed first floor dormer, although an oblique view towards the north would remain. However, the enlarged room as a whole would benefit from the proposed roof terrace, and two windows, which in one case would be opening doors. The overall effect on the living conditions of occupier would therefore be neutral.

16. It is suggested that the proposal would unacceptably reduce the outdoor space available for existing residents. Each existing property has a small gravelled patio area which can be accessed via French windows. Although in the case of no 5 the size of this patio area would be reduced, at first floor a roof terrace would be provided. The existing green area beyond the patios would be reduced in size, however a good sized outdoor amenity area would remain, which if landscaped could provide an attractive communal facility. The exact details of such an improved communal area could be the subject of a planning condition.
17. I therefore conclude that the proposal would not give rise to unacceptable effects on the living conditions of the occupiers of no 5, or other residents in the existing development and would conform with policy DC2 of the UDP and policy CS14 of the Core Strategy, and MSGP19 of the emerging plan, which amongst other things require that development should not have negative impacts on living conditions and should safeguard the light and privacy of adjoining residents, and the Framework which requires that new development should provide a high standard of amenity for existing users.

Living conditions of future occupiers

18. Under the original plans submitted to the Council the proposed dwellings were to have 3 bedrooms and a bathroom at first floor, and at ground floor a hallway and living room to front, and separate kitchen diner to the rear. The living room would have full length French windows providing daylight and outlook towards the river, whilst the kitchen and dining areas to the rear would have windows close to the boundary with the adjacent vacant and overgrown land.
19. In response to the concern that levels of daylight within the kitchen and dining room area would be unsatisfactory, the amended plans show the partition with the living room removed so that the whole area would benefit from daylight from the front facing French windows.
20. The proposed option of ground floor windows in the rear elevation would provide very poor outlook, given the presence of an existing close-boarded timber fence and steeply rising land to the south west, although they would provide additional daylight into the kitchen and dining area. However, given the depth of the room and the size of the French windows which would be provided in the front elevation, I am satisfied that the ground floor accommodation in each dwelling would receive sufficient daylight to provide acceptable living conditions even if the rear facing windows were omitted as suggested by the appellant. The dwellings are designed to take advantage of the expansive views towards the river, given which the outlook from within the dwellings would be satisfactory.

21. The plans submitted with the application show the rear wall of the proposed dwellings as being on the south west boundary of the site⁴. Therefore, even though the adjacent land currently rises up above eye level compared with the application site, it would be appropriate that any rear facing windows, were they to be provided, should be of obscured glazed in order that any future development plans on the neighbouring land is not compromised.
22. The Council has submitted an extract from its Household Alterations and Extensions Supplementary Planning Document (SPD) to confirm its stance that it regards kitchens as habitable room windows. I agree that a kitchen area of the size proposed should be regarded as a habitable room and benefit from some natural daylight. The kitchen area would be partly screened from the proposed French windows by the partition wall to the hall, however the ground floor living space taken as a whole would provide an acceptable living environment.
23. The Council has suggested that in the future it would be possible for property owners to install partition walls between the living room and the kitchen and dining areas without further consent. Whilst that could be the case, this seems rather unlikely given the size of the spaces and the attractive nature of the combined living, dining and kitchen areas proposed.
24. I therefore conclude that the proposal would not give rise to unacceptable living conditions for the occupiers of the proposed dwellings, and would therefore conform with Policy DC2 of the UDP, and Policy CS14 of the Core Strategy, and MSGP19 of the emerging plan, and the Framework which require that new development should provide a high standard of amenity for future users.

Other Matters

25. At the present time there are 7 parking spaces to serve the properties at 1 – 5, located on the opposite side of Reay Street. Under the proposal, a further 4 parking spaces to serve the proposed dwellings would be provided on land to the north east of the existing row of house. Whilst manoeuvring into and out of one of the spaces would be less than ideal, the level of parking would be adequate to serve the needs of the proposed dwellings. Furthermore, the proposals include the formation of a passing place within Reay Street which would help to reduce any problems of congestion and the passage of vehicles within the street.
26. The Council refers to a planning permission for the use of land on the opposite side of Reay Street as additional garden area. The Council suggests that a planning condition requiring the use of this area as garden land to serve the development would not be enforceable and also that conditions requiring the approval of a landscaping scheme in respect of the land has not been discharged. I note these points but the use of the other land to serve the proposal does not form part of the appeal proposal, although included in the original red line area.

⁴ On my site the existing timber fence did not appear to be in the same alignment as the proposed rear wall to the dwellings however the exact extent of property ownerships is a private matter.

Conditions

27. I have considered the conditions suggested by the Council against the tests of the Framework and advice provided by the Planning Practice Guidance. I find the majority to be reasonable and necessary in the circumstances of this case and some have been edited for consistency and clarity.
28. For certainty I attach the standard planning condition limiting the period of the consent to 3 years and a condition requiring the development to be carried out in accordance with the approved plans. I include reference to the amended plans which show both the removal of a ground floor partition wall in the units and the exclusion of the rear facing ground floor windows.
29. In the interests of the visual appearance of the development and the character and appearance of the area I attach a condition requiring the external materials to be submitted to and approved in writing by the local planning authority and the development to be carried out in accordance with the approved details.
30. The Council suggest that in the interests of privacy, a condition requiring all bathroom en suite and w.c. windows to be obscure glazed to Pilkington level 3 is required. I agree and attach the condition.
31. Reay street is narrow and does not have a footpath on either side over much of its length. The proposal includes the provision of a new footpath to one side and a passing place. In the interests of highway safety, a condition is attached requiring these works to be undertaken prior to the occupation of the dwellings, in accordance with details which are to be agreed with the Council. These works fall outside of the red line area of the application and therefore a suspensive condition is required if the condition is to be enforceable.
32. In the interests of highway safety, a condition is also attached requiring the proposed parking spaces to be provided prior to the occupation of the dwellings. The plans also show an area for cycle storage and bin storage, and a condition is attached requiring those facilities to also be provided prior to occupation.
33. The site is potentially contaminated, therefore a planning condition is attached requiring site investigations to be undertaken prior to the commencement of development. The appellant has agreed to this condition. A further 4 planning conditions are attached requiring any remediation to be carried out within agreed timescales; contaminated material to be removed and treated and an amended risk assessment submitted; any amended remediation and monitoring measures carried out; and a verification report submitted before the occupation of the dwellings.
34. In the interests of protecting the living conditions of existing residents a condition is attached limiting the hours during which construction of the approved development takes place.

35. I have referred to the potential benefit to both the existing and proposed development from the provision of an attractive communal landscaped area. A condition is attached requiring such an improved area to be provided before the occupation of the new dwellings in accordance with details which are to be agreed beforehand with the Council. I also attach a condition requiring the landscaping to be maintained for a period of 5 years, to enable it to become fully established, in the interests of the appearance of the area.

Conclusion

36. For the reasons given, the appeal is allowed.

Tim Wheeler

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development shall be carried out in accordance with the details contained in the submitted plans listed below and with the conditions attached to this consent:

Location Plan at 1:1250

Proposed Ground & First Floor Plans THD16-012-50 A

Proposed Roof Plan THD16-012-51

Proposed Elevations THD16-012-52

Proposed Elevations 2 (excluding ground floor rear windows) THD16-012-53 A

Existing site plan THD16-012-54

Proposed site plan THD16-012-55
3. No new external materials shall be used on site until final details of the respective external materials have been submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details and retained as such in for the lifetime of the development.
4. All windows serving bathrooms, en-suites and WCs shall be glazed with obscure glass at a level three or greater (in accordance with the levels set by Pilkington). The obscure glazing shall be installed prior to occupation of the dwellings hereby approved and retained as such for the lifetime of the development.
5. The dwellings hereby approved shall not be occupied until final details of the footpath and passing place on Reay Street have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with approved details before the dwellings are occupied and retained as such in for the lifetime of the development.
6. The dwellings hereby approved shall not be occupied until final details, including material, of the parking provision to serve the proposed dwellings have been submitted to and approved in writing by the Local Planning Authority. The parking spaces shall be provided in full accordance with the approved details before the dwellings are occupied and retained as such in for the lifetime of the development.
7. The dwellings hereby approved shall not be occupied until final details of the provision of secure and weatherproof cycle parking and bin storage have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details before the dwellings are occupied and retained as such in for the lifetime of the development.

8. The development hereby approved shall not commence until a report of findings arising from further intrusive site investigations and a Phase II Detailed Risk Assessment (to assess potential contamination at the site) have been submitted to and approved in writing by the Local Planning Authority. Where required, the Assessment shall include measures and timescales for Remediation, Monitoring and Verification Reports.
9. Where required, the remediation and monitoring measures approved under Condition 8 shall be implemented in accordance with the timescales approved and in full accordance with the approved details.
10. Any undesirable material observed during excavation of the existing ground shall be screened and removed. If any areas of odorous, abnormally coloured or suspected contaminated ground are encountered during development works, then operations shall cease and the exposed material shall be chemically tested.

The works shall not continue until an amended Risk Assessment and, if required, amended remediation and monitoring measures have been and submitted to and approved in writing by the Local Planning Authority.

11. The amended remediation and monitoring measures approved under condition 10 shall be implemented in accordance with the approved details prior to any further works (other than those required for remediation) and maintained for the life of the development.
12. Where remediation is required (under conditions 9 -11) following completion of the approved remediation and monitoring measures, the development hereby approved shall not be occupied until a verification report that demonstrates the effectiveness of the remediation carried out has been submitted to and approved in writing by the Local Planning Authority.
13. All external works and ancillary operations in connection with the construction of the development, including deliveries to the site, shall be carried out only between 0800 hours and 1800 hours on Mondays to Saturdays and at no time on Sundays, Bank Holidays or Public Holidays.
14. The dwellings hereby approved shall not be occupied until details of the landscaping of the communal open space area within the site have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in full accordance with the approved details within the first available planting season following the approval of details.
15. The landscaping scheme approved under condition 15 shall be maintained in accordance with British Standard 4428 (1989) Code of Practice for General Landscape Operations for a period of 5 years commencing on the date of Practical Completion and during this period any trees or planting which die, become diseased or are removed shall be replaced in the first available planting seasons (October to March) with others of a similar size and species and any grass which fails to establish shall be re-established.

ENDS