



Appeal Decision

Site visit made on 7 January 2020

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th April 2020

Appeal Ref: APP/H4505/W/19/3239555

160 Brighton Road, Gateshead NE8 4QA

- 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 Susil Kumar against the decision of Gateshead Council.
 - The application Ref: DC/19/00322/COU, dated 4 April 2019, was refused by notice dated 11 July 2019.
 - The development proposed is described as: Change of use from residential to retail at ground floor. First floor refurbished to two bedroom managers flat. Two storey extension to end elevation.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The Planning application form sets out that this was a combined application for planning permission and advertisement consent. For the avoidance of doubt this appeal relates only to the application for planning permission.

Main Issues

3. The main issues in this appeal are:
 - Whether the appeal site is a suitable location for new retail development having regard to the development plan and the National Planning Policy Framework.
 - The effect of the proposed development on the living conditions of the occupiers of number 123 Dunsmuir Grove with particular regard to sunlight, daylight and outlook; and
 - The effect of the proposed development on the character and appearance of the area.

Reasons

Whether the appeal site is a suitable location for new retail development

4. The appeal building was formerly a combined shop and dwelling, and from the planning history provided by the Council, the building was converted to a solely residential use in the final years of the Twentieth Century.

5. Policy CS7 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2015 (CSUCP) seeks to maintain and enhance the vitality and viability of town, district and local centres. The Council identify that the Coatsworth Road district centre and Saltwell Road local centre are those closest to the appeal site. Outside of the identified centres, new retail proposals will only be permitted where it can be demonstrated that there is not a sequentially preferable site within or on the edge of centres.
6. The Council's most recent survey of retail centres indicates that there are vacant units in both the Saltwell Road local centre and Coatsworth Road district centre. Although this survey is now some two years old, during my site visit I was able to visit both centres and saw that there are still vacancies within them. I noted that both centres are within approximately 10 minutes walking time of the appeal site. I also saw that on Brighton Road itself there were vacant retail units within a short distance of the appeal building.
7. The appellant's principal arguments for locating the proposed shop at the appeal building is that the topography of the area makes the existing centres less convenient to access for certain sections of the population and that there are no convenience stores servicing this immediate area. I saw when I visited the site that there is a convenience store on the corner of Rawling Road and Faraday Grove and a second on the corner of Rawling Road and Whitehall Road. Rawling Road is the next street to the south of Brighton Road and is connected by frequent cross streets. Whilst it is at a lower elevation, the cross streets are not so steep as to make these inaccessible. In any event, there are also existing vacant units on Brighton Road itself and, consequently, I do not find the appellant's arguments regarding accessibility or lack of provision persuasive.
8. Although I accept that the appellant owns the appeal building and that historically it was used as a shop, neither of these points, in or of themselves, warrant granting planning permission for a new retail unit when there are comparable vacant units nearby and it has not been shown that there is an under-provision of accessible convenience stores in the vicinity. I therefore find that it has not been demonstrated that there are no sequentially preferable sites available.
9. At 60m² the proposed retail unit is too small to require a retail impact assessment under the terms of Policy CS7 which relies on the threshold of 2,500m² set out in the National Planning Policy Framework (the Framework). There is no substantive evidence from either party regarding the potential impact of the proposed development on existing designated centres. Nonetheless, given the small size of the proposed unit, I consider it is unlikely that the proposal would result in a significant adverse effect on either of the nearby centres. This notwithstanding, the proposal still conflicts with Policy CS7 in terms of the location and the wording of the policy is such that in order to be permitted, a proposal must demonstrate both that there are no sequentially preferable sites, and that there would be no significant adverse impact from the proposal. The proposed development would conflict with Policy CS7 when taken as a whole.
10. CSUCP Policy CS9 seeks to prevent the loss of family homes. The planning application form sets out that the appeal building is currently a three bedroom dwelling, which would be considered as a home suitable for occupation by a

family. The appeal proposal would replace this with a two bedroom flat which ordinarily would not be considered as a family home. I have not been provided with any evidence by either party in respect of the supply of family homes in either the vicinity or in the Borough as a whole. Nonetheless, the appeal proposal would result in a quantitative reduction in housing of a size suitable for occupation by a family and, in the absence of any evidence to the contrary, would conflict with the requirements of CSUCP Policy CS9.

11. I conclude that the appeal site would not be a suitable location for new retail development having regard to the development plan and the National Planning Policy Framework. It would conflict with the relevant requirements of Policies CS7 and CS9 of the CSUCP.

Living conditions of the neighbouring occupiers

12. Policy CS14 of the CSUCP addresses wellbeing and health. It expects, amongst other things, that new development to prevent negative impacts on residential amenity and wider public safety from noise, ground instability, ground and water contamination, vibration, and air quality. The reason for refusal on the decision notice cites loss of direct sunlight to, and loss of outlook from, the neighbouring property at 123 Dunsmuir Grove. Neither of these matters are mentioned in the criteria set out in Policy CS14 and, consequently, I find that this policy is not relevant to the appeal proposal.
13. Saved Policy DC2 of the Gateshead Unitary Development Plan 2007 (the UDP) seeks to ensure that new development safeguards the enjoyment of light and privacy for existing residential properties and ensures a high quality of design and amenity for existing and future residents. This policy is consistent with Paragraph 127 of the Framework and can be given full weight.
14. The appeal building is a two storey structure located at the junction of Brighton Road and Dunsmuir Grove. The appeal building runs parallel to, and faces, Brighton Road and is conjoined with the property at 123 Dunsmuir Grove, a two storey, end of terrace, house. This property has its principal elevation facing Dunsmuir Grove and the rear elevation facing the back lane between Dunsmuir Grove and Westminster Street. To the rear, number 123 has an existing two storey rear addition that projects from the back wall on the opposite side of the house from the appeal building.
15. The proposal would replace an existing addition to the gable end of the appeal building that has a monopitch roof terminating at the current eaves level, with a two storey, flat roofed, element projecting the same distance as the existing addition but with a greater width, extending this to the current rear wall of the appeal building.
16. There is no technical evidence from either party in respect of sunlight and daylight. However, I observed when I visited the site, that the appeal building is located to the north east side of number 123 Dunsmuir Grove. Due to the orientation and relative positions of the two buildings in relation to the path of the sun, the proposed extension would have little or no effect on direct sunlight received by the neighbouring property or its curtilage. The existing structure of the appeal building may cast a shadow in the morning, but this would not be made significantly worse by the appeal proposal.

17. Although the Council describe the proposed development as a rear extension, due to the configuration and orientation of the appeal building and the position of the extension on the shortest visible elevation, it could equally be described as a side extension. The planning application form uses the term 'end elevation'. Regardless of this point, the Council's Household Alterations and Extensions Supplementary Planning Document 2011 (the SPD), which sets out more detailed guidance on extensions to dwellings and is to be read alongside the more general design policies in the development plan, seeks to ensure that any extension to a building does not have an overbearing or oppressive effect on nearby properties.
18. The existing, sloped roof, addition to the appeal building is set away from the back wall of the building and the common boundary with the neighbour at first floor level. The proposed new extension would be parallel to the rear wall of the existing building and would have a greater overall height. This would result in a high level extension to the rear wall of the appeal building and an increased built form adjacent to the common boundary that would be unrelieved by any features or openings, apart from a single door at ground floor level.
19. I saw when I visited the site that there are windows in the main rear wall of the neighbouring building between the appeal building and the rear addition to number 123 Dunsmuir Grove. Although there are no details of the internal layout of this property, the Council state that these windows serve habitable rooms and I have no evidence that would suggest otherwise. The proposed extension would not effect direct sunlight to these windows, nevertheless, from my observations on site, as they are currently enclosed by projecting two storey elements to each side, an increase in the height and extent of one of these elements would result in a reduction in the levels of ambient daylight received. Additionally, the appeal proposal would, by increasing the length and height of the rear wall of the appeal building, increase the perceived sense of enclosure at the rear of number 123. The boundary between the two properties may be angled but not significantly so and, as a result, the proposed extension would further reduce the outlook from the windows to the rear of number 123, which is already severely constrained by the existing built form to each side of them.
20. I accept that the appeal proposal would slightly reduce the footprint of the appeal building at ground floor level. Nonetheless, this would not mitigate the effect of the addition to the mass of the building at a higher level.
21. The appeal proposal would also increase the degree of enclosure to the rear yard of the neighbouring property. However, as this is an outdoor space, the effect on the living conditions of the occupiers would not be as great as the effects on the interior of the building.
22. I conclude that the proposed development would cause harm to the living conditions of the occupiers of number 123 Dunsmuir Grove, with particular regard to daylight and outlook. It would conflict with the relevant requirements of Saved Policy DC2 of the UDP and the guidance in the SPD.

Character and appearance

23. The appeal site is located in an area characterised by two storey, late Nineteenth or early twentieth Century, terraced properties laid out in a grid

pattern with rear lanes providing access to the rear of the properties. These are predominantly constructed from red brick with slate covered, pitched, roofs. Typically, these older terraced properties have a two storey rear addition with the floor levels set slightly lower than the main part of the house. At the time of my site visit, several blocks to the north east of the appeal site has been cleared of buildings and I saw that to the south west of the site, towards Saltwell Road, that a number of blocks had been or were in the process of being developed for new housing. In the vicinity of the appeal site the regular block structure and strong building lines evident elsewhere in the surrounding area is not so pronounced due to the clearance of the blocks to the north east; the presence of two churches and school buildings in the area bounded by Westminster Street, Brighton Road, Faraday Grove and Rawling Road; and the presence of an area of public open space between Westminster Street and Hyde Park Street.

24. The appeal building has an unusual configuration compared to the predominant building form in the area and the appeal proposal, as set out above, could equally be considered either a side or rear extension. The appeal proposal would create a two storey, flat roofed, addition adjacent to the principal elevation of the existing house, which has a pitched roof. The SPD provides a number of general points in respect of the design of extensions stating that proposed extensions which front a public road or footpath, will be required to be of a high standard of design, which respects the appearance of the existing property and the character of the street scene, and that the design should usually incorporate a pitched roof. It also states that enlargements of greater than one storey should as far as is practicable use the same roof pitch as the original house, and that on end of terrace properties, extensions should continue the terrace building line and roof ridge height so that the extension becomes part of the terrace.
25. The existing addition to the side/rear of the house has a monopitch, sloping roof at a lower level than the main roof which helps to integrate the addition into the principal façade of the house. In contrast, the proposed, flat roofed, extension, although it would be constructed from matching brickwork, would terminate at the eaves level of the existing building, which would visually truncate the existing roof form and undermine the visual integrity of the street facing facade. Due to a change in alignment of Brighton Road at the point where the appeal building is located, the proposed extension would be very visible in views from the north with the existing gable of the building visible beyond it. The less pronounced block structure in the vicinity of the appeal site increases the visual prominence of the appeal building. As a result, the extension would appear visually incongruous in the context of the building and sit uncomfortably in the street scene.
26. I did see in the surrounding area that there are a number of flat roofed rear additions to properties, but none are as visually prominent as the appeal proposal would be and no flat roofed elements are seen in conjunction with the principal elevation of the building. The dominant pattern is that residential buildings have front facades of uniform height. The submitted evidence does not include any rationale for the design approach taken that would explain the use of a flat roof adjacent to the main pitched roof on the principal elevation of the building. Although the appellant states that the extension would improve the appearance of the building, for the reasons set out above, I do not agree that this would be the case.

27. I therefore conclude that the proposed development would cause harm to the character and appearance of the area. It would not comply with the relevant requirements of Policy CS15 of the CSUCP and Saved Policy ENV3 of the UDP which, when read together, expect new development to be of a high standard of design and make a positive contribution to the established character and identity of its locality. It would also be inconsistent with the requirements of the Framework that new development should add to the overall quality of an area, be visually attractive and be sympathetic to local character.

Conclusion

28. For the above reasons, I conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR