
Appeal Decision

Site visit made on 13 September 2016

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 21 September 2016

Appeal Ref: APP/E2001/W/16/3150208

Store rear of 40 Hull Road, Anlaby, East Riding of Yorkshire HU10 6UA

- 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 Newton Contracting Services Ltd. against the decision of East Riding of Yorkshire Council.
 - The application Ref DC/15/03977/PLF, dated 11 February 2016, was refused by notice dated 6 April 2016.
 - The development proposed is single and two storey extension, change of use to 3No. studio flats, office, warehouse and retail shop use.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues raised by this appeal are the effect the proposal would have on the living conditions of future and neighbouring occupiers with particular reference to daylight, outlook and overlooking.

Reasons

3. The appeal site is located behind a semi-detached pair of shops with flats above them and bounded by a larger retail unit to the east which form part of a larger parade of shops. The rear gardens of residential properties on Sykes Close abut the site to the south. Garages, outbuildings and hard standing areas adjoin the site to the north and west.
 4. As well as a commercial unit the ground floor of the proposal would house Studio 1, the living area of which would be lit by windows on the south and west elevations. Those on the south elevation would be situated very near to a close boarded fence the height of which the drawings indicate would extend to just below that of the top of those windows. The very close proximity and height of the enclosure would severely limit the outlook from these windows such that occupiers would be presented with a very restricted aspect and one which would largely enclose any views.
 5. Although a slightly more spacious area would be provided in front of the west facing windows this would be compromised by the height and mass of an existing garage partially intervening in close proximity to the windows. The overall effect would be one of a very limited and oppressive outlook which would result in occupiers feeling confined when in the flat.
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6. Although facing south and notwithstanding the width of the proposed flat, the combination of the size of the windows and their close proximity to the fence would limit the amount of day light and sunlight which would reach the interior of Studio 1, particularly that part farthest from the west elevation. The western windows would be likely to allow a reasonable amount of daylight into that area of the flat nearest to them but sunlight would be limited to the later parts of the day, particularly during winter months. Therefore, notwithstanding the size of the glazed area those parts of the flat furthest from them would receive limited natural light.
7. The levels of day and sunlight reaching the interior of Studio 2 would also be limited by the western aspect of the main windows. The modest window in the north elevation would be located between the tall wall of the existing retail unit and second floor extension which would significantly reduce the amount of light which it would allow into the eastern part of the flat. Given its depth and the intervening bathroom, the interior of Studio 2 would be likely to be particularly dark for much of the time without artificial light.
8. The appellant proposes that a small obscure glazed window could be introduced in the south elevation of Studio 2. However this does not feature on the drawings before me and in any event there is little evidence as to whether such an arrangement would enable sufficient light into the flat to overcome the deficiency in that regard. This limits the weight I can give to this suggestion.
9. The outlook from the first floor windows of Studio 2 would be unencumbered and would be acceptable for those parts of the flat close to them. However, the depth of Studio 2 and the very limited outlook that the north window would offer would mean that it would in effect have a single aspect. This would result in those parts of the flat furthest from the west windows having a very limited outlook which would compound the harm the lack of natural light would create.
10. Studio 3 would be smaller and contain windows on three elevations, albeit that adjacent to the kitchen area would face the adjoining wall of the retail unit in close proximity with subsequent limits to outlook and light. Those windows on the west elevation would be set back from the intervening southern block which would further limit light levels reaching the interior. Although the first floor situation and relationship of windows to the living area would make it more likely that what natural light could enter the flat would better penetrate the space than the arrangement in the other two proposed units, the overall levels of daylight, and extremely limited sunlight which would result from its aspect and orientation would not be at a level which occupiers could reasonably expect to enjoy.
11. The appellant's assertion that adequate light would be provided to the flats is not backed up by any substantive evidence. In the absence of any conclusive information to the contrary the overall effect of these circumstances are such that future occupiers of all three Studios would in all likelihood experience dark conditions in much of their living areas and as a consequence have to rely on artificial light for much of the day, in particular during winter months. Combined with the very limited outlook the occupiers of Studios 1 and 2 would experience this would lead to significant harm to their living conditions.
12. The outlook from Studio 3 would effectively be limited to a single aspect (if the north window were to be obscured) but would be at first floor level and due to the depth of the proposed flat this would not be constrained to such a degree

that this element of the proposal would lead to an unacceptable effect on occupiers' living conditions.

13. Whilst the proposal could be considered to optimise the potential of the site in some respects this would be at the expense of amenity of the proposed properties and as such the proposal would not meet the requirements of East Riding Local Plan Strategy Document, 2016 Policy ENV1, in particular criterion B. 4. It would also not accord with the National Planning Policy Framework's (the Framework) core planning principle of always seeking high quality design and a good standard of amenity for all existing and future occupants of land and buildings nor its requirements for good design which contributes positively to making places better for people.
14. The proposed extension would result in studio 3 being in close proximity to the flat which is located above the adjoining shop at 40 Hull Road and a window directly facing a habitable room in that existing flat. However, the appellant's suggestion of providing obscure glazing in the north facing window of Studio 3, which could be required by way of a planning condition, would avoid any harm from overlooking from the flat of the habitable room opposite and vice versa.

Other Matters

15. The access leading between the adjoining retail units would be narrow and due to the heights of those flanking buildings and its orientation would be dark for much of the time. It would lead to a constrained dog-leg arrangement between the proposed extension and existing outbuildings. This would have little natural surveillance and would not create a welcoming, safe or convenient route for occupiers to use. Proposed lighting would only mitigate these detrimental conditions to a limited degree. Although the plans indicate an alternative point of entry leading from a more generous and open route between the adjacent pairs of shop units to the west this would not appear to be on to land over which the appellant has any control and it is not therefore certain it would be available. These circumstances would compound the harm to future occupiers' living conditions.
16. The proposal would result in the re-use of a vacant building and deliver three new homes of a size for which the appellant considers that there is a need and commercial space which could provide employment, all of which would be in an accessible location. However, notwithstanding the Framework's support in principle for such matters, these benefits would not be outweighed by the material harm the proposed flats' configuration would cause to the living conditions of future occupiers and does not therefore lead me to a different conclusion on the main issues.

Conclusion

17. For the above reasons, and having considered all other matters raised, the proposal would harm the living conditions of future occupiers contrary to the development plan and the Framework. The appeal is therefore dismissed.

Geoff Underwood

INSPECTOR