

Appeal Decision

Site visit made on 4 October 2016

by Roy Merrett BSc(Hons) DipTP MRTPI

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

Decision date: 10 November 2016

Appeal Ref: APP/J4525/W/16/3154494

Vacant Car Repairers, Grantham Road, Sunderland SR6 9SN

- 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 Mark Howey against the decision of Sunderland City Council.
 - The application Ref 15/02362/FUL, dated 23 November 2015, was refused by notice dated 29 January 2016.
 - The development proposed is demolition of existing lock up type garages and erection of 4 terraced houses.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on i) the character and appearance of the area including the significance of existing amenity open space and ii) the living conditions of existing residents with particular regard to outlook, sunlight and daylight in relation to the occupiers of 12 - 21 Ashdale Court.

Reasons

Character and Appearance

3. The appeal site is a former car repair garage incorporating various disused and dilapidated buildings and an overgrown external yard. The site also incorporates a small but densely planted area adjacent to the western end of Grantham Road.
 4. In terms of detailed design, the proposal would incorporate tall gable elevations which would not include any features to break up the continuity of the uniform brick walls. The south-west side elevation of the building would be immediately adjacent to Grantham Road, from where the large blank gable would appear stark and dominant in the street scene. The north-east side elevation would be prominently sited in relation to Kelvin Grove as it rises towards the northern boundary of the site. From this location it would appear somewhat incongruous with the attention to detail and broad symmetry of the adjacent building at 12 – 21 Ashdale Court. The proposal would therefore result in harm to the appearance of the street scene.
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5. The area is characterised by a mixture of traditional Victorian terraced streets, which include Sandringham Terrace to the north-west, interspersed with modern housing, including the contemporary cul de sacs of Ashdale Court to the east and the redevelopment of the former Sunderland football club ground to south-west.
6. Dwellings are predominantly two storeys in height, though the immediately adjacent flats at 12 – 21 Ashdale Court and 1 – 6 Turnstile Mews to the west are taller three storey buildings. The fenced rear boundaries of dwellings on Ashdale Court adjoin Grantham Road to the south-east of the site.
7. Accordingly, the variation in the design, scale and age of surrounding development means that the proposed modern terrace of houses with accommodation in the roof space would not appear out of keeping with its general surroundings or interrupt any sense of uniformity in the street scene.
8. The development would result in the removal of some of the landscaped amenity space to the front of the site. I am aware that the National Planning Policy Framework (the Framework) states that existing open space should not be built on unless, amongst other things, an assessment has been undertaken which clearly shows the space to be surplus to requirements. From information provided by the Council, undisputed by the appellant, the site is within part of the City where amenity open space is in relatively short supply.
9. However, notwithstanding the concerns raised by the Council, this forms a relatively small amount of amenity open space, which from my visit does not appear to make a significant contribution to the quality of the street scene. Whilst the loss of this space would be unfortunate, it appears to me to be an acceptable compromise in the context of the overall improvements that the development would bring to the run-down appearance of the wider site. Furthermore, though the maintenance arrangements are unclear, the retention of a small area of landscaped space would soften the visual impact of the front of the development including forecourt areas. The regeneration of the site would not however, outweigh the harm I have identified above in terms of the specific design shortcomings of the scheme.
10. I conclude, on balance, that the proposal would result in harm to the character and appearance of the area, on the basis of the poor quality of detailed design as set out above. Accordingly it would be in conflict with Saved Policy B2 of the Sunderland Unitary Development Plan 1998 (UDP) and the Framework insofar as they seek to promote high quality design. It would not, however, result in a serious effect on the amenity or recreation value of the site, particularly when taking into account the visual improvement that would be secured from regenerating this location. Accordingly it would not conflict with Policy B3 of the UDP which seeks to protect open space from development that would have a serious effect on its amenity value. Policy H4 of that document is concerned with the density of development and as such is not relevant to this issue.

Living Conditions

11. The development would be situated close to the side boundary with, but significantly forward of the north-west elevation of the adjacent flat development at Nos 12 – 21 Ashdale Court. It is undisputed that the windows in the north-west elevation of that building serve habitable rooms including

- bedrooms and living areas. The Council has raised significant concerns about the position of the proposed building in relation to 12 – 21 Ashdale Court, in terms of its impact on light and outlook.
12. It is undisputed by the parties that the development would encroach beyond a hypothetical line taken at 45 degrees from the mid-point of the nearest habitable room windows in the adjacent existing building. This, so-called, 45 degree rule is a commonly used rule of thumb to help assess when development will cause an unacceptable impact on light to adjacent buildings.
 13. Considering the east to west path of the sun, the windows in the north-west elevation of the existing building would be expected to receive limited direct sunlight. Accordingly the proposal would not result in a significant impact on the level of sunlight enjoyed within internal rooms.
 14. However, the front of Nos 12 – 21 Ashdale Court is set out as an area of grassed private amenity space and I consider the proximity and height of the proposed building would lead to the overshadowing of this area. Furthermore, notwithstanding the limited impact on overshadowing of rooms, the conflict with the 45 degree rule as set out above, would be likely to result in significant loss of natural light within the nearest ground floor habitable room of the adjacent building. In the absence of any technical assessment concluding to the contrary, I conclude that these factors would result in a detrimental impact on the living conditions of the occupiers of Nos 12 - 21 Ashdale Court.
 15. Directly opposite the Ashdale Court flats, on the northern side of Kelvin Grove, is a gap in built development marked by a grassed embankment. This allows for a pleasant, open outlook from the north-west elevation of 12 – 21 Ashdale Court. Whilst the proposed building would not interfere with the quality of direct outlook from the front of the flats, it would be sufficiently tall and close to that building to result in an overbearing sense of enclosure that would feel oppressive for occupiers of the nearest flat and users of the adjacent private amenity space.
 16. I conclude that the development would result in harm to the living conditions of the occupiers of 12 - 21 Ashdale Court in terms of outlook, overshadowing of the private garden area and natural lighting of the nearest ground floor habitable room.
 17. I note that the appellant considers there to be comparable relationships between other buildings elsewhere in the locality. However from the plan drawings provided it appears to me that with the relationship between 20-25 Association Road and 9 Midfield Drive, the difference in projection between the buildings is not as great compared to the current appeal. Although the flats at 1 – 6 Turnstile Mews project significantly beyond the adjacent dwelling, the flats in question are to the north of that dwelling and as such would not result in the same impact on natural light compared with the current appeal case. In any event it is important that I consider the current appeal on its individual merits.
 18. Accordingly the proposal would be in conflict with one of the core principles of the Framework which states that planning should always seek to secure a good standard of amenity for occupants of land and buildings. Whilst the proposal is for new residential development it would nevertheless be out of keeping with the principles set out in the Council's Supplementary Planning Document,

Household Alterations and Extensions which seek to avoid unacceptable overshadowing and loss of outlook.

Other Matters

19. The appellant argues that the proposal would assist the Council in maintaining its five year supply of housing land. In relation to this, the Council concedes that it cannot be certain that a five year supply of deliverable sites currently exists. In the event that such a supply of deliverable housing sites was lacking, it would, in accordance with the Framework, be necessary to consider the proposal in the context of the presumption in favour of sustainable development unless the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate development should be restricted.
20. I have found that the proposal would cause harm to the character and appearance of the area and to the living conditions of the occupiers of nearby flats. I must take into account that the Government attaches great importance to the design of the built environment and that good design is regarded by the Framework as a key aspect of sustainable development. I must also take into account that the Framework states that seeking a good standard of amenity for all existing and future occupants of land and buildings is a core planning principle. I therefore attach significant weight to these considerations.
21. Even if there is a shortfall of housing land and whilst there is no dispute between the parties that the principle of residential development on the site would be appropriate, the proposal in this case for four dwellings would make only a very minor contribution to the supply. On balance this limited positive impact would be outweighed by my aforementioned negative findings. I therefore conclude that the proposal would not be the sustainable form of development which has the support of national policy, when assessed against the Framework as a whole.

Conclusion

22. For the above reasons and having had regard to all other matters raised, including that there has been a letter in support of the development, I conclude that the appeal should be dismissed.

Roy Merrett

INSPECTOR