
Appeal Decision

Site visit made on 13 December 2016

by I Radcliffe BSc(Hons) MRTPI MCIEH DMS

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

Decision date: 6 January 2017

Appeal Ref: APP/R1038/W/16/3158882
5C Market Street, Clay Cross S45 9JE

- 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 Ms Najat Aldoulaimi against the decision of North East Derbyshire District Council.
 - The application Ref 16/00404/FL, dated 6 April 2016, was refused by notice dated 1 September 2016.
 - The development proposed is the change of use from C3 to C4.
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Decision

1. The appeal is dismissed.

Procedural matter

2. The description of the development that appears on the decision notice, appeal form and in the appellant's statement is 'the subdivision of two existing flats into four studio and two, one bedroom apartments'. I am content that this amended description adequately describes the proposal and I shall use it in the determination of this appeal.

Main Issue

3. The main issue in this appeal is whether the appeal scheme comprises sustainable development as defined in the National Planning Policy Framework ('the Framework'), having regard to whether the proposed development would provide acceptable living conditions for future occupiers with regard to internal living space.

Reasons

4. The appeal property is located within the centre of Clay Cross where, by virtue of policy SH4 of the North East Derbyshire Local Plan, the conversion of the upper floors of retail units for residential use is supported. As the property falls within this definition, the proposed development would therefore be acceptable in principle.
5. The two upper floors of the premises are at present vacant. When they were last in use each floor provided a two bedroom flat. The proposal would provide on each floor a one bedroom flat and two studio flats, increasing the number of residential units from two to six.

Living conditions

6. In planning policy 'living conditions' are also referred to as 'amenity'. The Framework is an important material consideration. It seeks the delivery of
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- high quality homes. A core planning principle of the Framework, in paragraph 17, is that high quality design and a good standard of amenity for future occupants of buildings should always be sought.
7. The proposed development would provide a 21sqm one bedroom apartment and two studio apartments (16sqm and 17sqm) on the first floor. On the second floor, a 24sqm one bedroom apartment and two 13sqm studio apartments would be created. The Local Plan is silent on living space standards for residential units and there are no supplementary planning documents, or supplementary planning guidance, that relate to this matter either.
 8. The government published the Nationally Described Space Standard (NDSS) as part of its Technical Housing Standards in 2015. It sets internal space standards, which for new development of one storey, one bedroom single occupancy dwellings, is a minimum of 37sqm. The proposed apartments would be considerably smaller than this standard. However, the NDSS only applies in those local planning authority areas where there is a relevant current local plan policy. In this case there is no such policy. Therefore whilst the NDSS remains a material consideration, insofar as it indicates what the government envisages internal space standards could be if the hurdles to adoption of a relevant policy have been overcome, I attach only limited weight to it.
 9. In the absence of adopted space standards in relation to new dwellings, the adequacy of internal space provision is therefore a matter of planning judgement based upon the information that is available.
 10. Reference has been made to the Decent and Safe Homes (DASH) standards. These are derived from the Housing Act 2004 and pre-date all recent national planning policy regarding high quality homes and a good standard of amenity. As a result, I agree with the Council that the DASH standards, used internally within the authority to comment on the application, are not likely to be consistent with the Framework. Nevertheless, its standards are a yardstick against which the proposed development can be assessed, although, for the reasons that I have given, the weight that I attach to them is limited.
 11. The floor space of the one bedroom apartments would exceed DASH's minimum standards, but based on two person occupancy, the floor space of all the studio flats would be below the relevant minimum standard of 18sqm by up to 5sqm. If occupancy of the studio flats was limited to a single person, two of the four studio flats would still slightly fail the minimum standard. It has been suggested that if occupancy of the smaller studios was restricted by condition to a single person, the resulting shortfall in living space would be inconsequential. However, in my assessment, given DASH's low minimum standards such an approach would be unacceptable.
 12. In the studio flats future residents would live, cook, eat and sleep in the same room. Owing to a bathroom occupying the corner of each room, the living space would be irregularly shaped. On the basis of the submitted floor plans, it appears to me, that once space is allowed for the kitchenette and bed there would be insufficient floor area left for basic items of furniture, whilst also allowing single or dual occupants to easily move around the room and carry out day to day activities. The absence of any private outdoor amenity space for residents would exacerbate this deficiency. Consequently, the proposed development would result in cramped, highly unsatisfactory living conditions that would fall well short of what could reasonably be interpreted as the good standard of amenity for future occupants of buildings sought by the

Framework. It would therefore be contrary to a core planning principle in paragraph 17 of the Framework.

13. I note that as the conversion works would be carried out in accordance with Building Regulations, the proposed units would meet statutory requirements for energy efficiency, sound insulation and safety. Nevertheless, this would not overcome the fundamental objection to the inadequate living space that would be provided.

Conservation Area

14. The appeal property lies within the Clay Cross Conservation Area. In the exercising of planning functions, the statutory test in relation to Conservation Areas is that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The Conservation Area covers those parts of the town that contain well designed older buildings. In the town centre, where the appeal site is located, two to three storey buildings are set on the back edge of the pavement with retail units on the ground floor and attractive detailing to the upper storeys. The significance of the Conservation Area is therefore architectural.
15. Other than replacing the existing windows, the design of which is a matter that could be controlled by condition, the proposed development would not alter the appearance of the building. As the building is located in a busy town centre, the intensification of its use that would occur as a result of the proposal would not harm the character of the area. The proposal would therefore preserve the character and appearance of the Conservation Area and comply with the statutory test.

Overall Conclusions: the planning balance

16. The Framework sets out a presumption in favour of sustainable development. The policies of the Framework as a whole constitute the Government's view of what sustainable development means in practice. There are three dimensions to sustainable development: social, environmental and economic.
17. It is common ground that less than a five year housing supply exists in the District. The appellant has quantified the shortfall as 844 dwellings. This has not been challenged by the Council. Consequently, a significant undersupply of housing exists in the District.
18. Socially, the proposed development in providing a net increase of four units of accommodation would make a contribution, albeit small, to addressing the undersupply of dwellings, in particular small dwellings of which there is a particular shortage in the District. I attach some weight to this as a benefit of the scheme. However, whilst the Local Plan is silent in relation to space standards, the cramped living conditions that would be provided would result in demonstrably poor living conditions for future residents of the proposed studio flats. I attach considerable weight to the resulting harm that would be caused which would be in clear conflict with the social dimension of sustainable development.
19. In terms of the environment, the building is well located in terms of access to services, facilities and public transport. The proposal in bringing the empty upper floors of a building back into use within the town centre is supported by the Local Plan and would aid its regeneration. These are factors of some weight in favour of the proposal.

20. Economically, there would be a small boost to employment during reconfiguring the building and fitting out the flats, although by its nature this would be short lived. The additional residents would increase local spending power slightly, which would be of marginal benefit to local businesses.
21. The proposed development would result in some social, economic and environmental benefits which I have described above. However, the shortcomings in terms of the living conditions for future occupiers are a considerable concern. The adverse impacts in this regard would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. As a result, the proposal would not be a sustainable development.
22. For these reasons that I have given, and having regard to all other matters raised, I therefore conclude that the appeal should be dismissed.

Ian Radcliffe

Inspector