

Appeal Decisions

Site visit made on 4 January 2017

by Claire Searson MSc PGDip BSc (Hons) MRTPI IHBC

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

Decision date: 30 January 2017

Appeal A Ref: APP/W3005/W/16/3159293

79 Outram Street, Sutton in Ashfield, NG17 4BG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant [outline] planning permission.
 - The appeal is made by Mr Sarkis Mahseredjian against the decision of Ashfield District Council.
 - The application Ref V/2016/0472, dated 19 July 2016, was refused by notice dated 9 September 2016.
 - The development proposed is Change of Use / Extensions from A5 use Hot Food Takeaway with flats above to 6 no. Studio Apartments and a one bedroom Detached Dwelling.
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Appeal B Ref: APP/W3005/W/16/3159317

79 Outram Street, Sutton in Ashfield, NG17 4BG

- 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 Sarkis Mahseredjian against the decision of Ashfield District Council.
 - The application Ref V/2016/0473, dated 19 July 2016, was refused by notice dated 9 September 2016.
 - The development proposed is Proposed Change of Use / Extensions from A5 use Hot Food Takeaway with flats above to 4 Studio Apartments, a one bedroom Flat and a one bedroom Detached Dwelling.
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Decisions

1. Appeal A is dismissed and Appeal B is dismissed.

Application for costs

2. An application for costs was made for each appeal by Mr Sarkis Mahseredjian Ashfield District Council. These applications are the subject of a separate Decision.

Main Issues

3. The main issues in both appeals are (i) the effect of the proposed development on the living conditions of future occupants in respect of outlook and amenity space and neighbouring occupants at No 2 North Street in respect of privacy and (ii) the effect of the proposed development upon the character and appearance of the area.
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Reasons

Living Conditions

4. No 79 Outram Street is a 3-storey vacant property which comprises of a commercial unit to the ground floor level, and two residential flats to the first and second floors. To the rear is a separate 2-storey outbuilding which fronts onto a shared rear driveway which serves a number of properties and is accessed via North Street.
5. The Appeal A scheme would involve the conversion of the property into single occupancy studio apartments with 2 on each floor. The proposals would necessitate alterations to the rear roof including the insertion of a new dormer window as well as the enlargement of an existing dormer. Appeal B would incorporate 2 No single occupancy apartments to the ground floor and first floor level. To the second floor there would be a double occupancy 1 bed flat.
6. Both Appeal A and Appeal B propose the change of use of the outbuilding to a 1-bed dwelling. To the rear of the dwelling is a small side return area, as well as a slightly larger courtyard area between the rear of the building and the adjacent outbuilding.
7. As depicted on the plans the outdoor area would be used for a bin and cycle store and would be shared between all of the proposed accommodation for each appeal, including the separate dwelling. The Council's Residential Design Guide Supplementary Planning Document 2014 (SPD) sets out minimum outdoor amenity space standards of 25 square metres per flat as well as requiring a minimum of 50 square metres for a 1 or 2 bed dwelling.
8. While the scale of the outdoor space in terms of its size in square metres is disputed by parties, it is clear that the outdoor space for both the proposals in Appeal A and Appeal B would result would fall significantly short of these standards. I consider that the scale of the outdoor amenity space would be disproportionately small in comparison to the level of proposed accommodation for both appeals and would therefore be inadequate. This lack of outdoor amenity space would cause significant harm to the living conditions of future occupants and my concern would not be overcome by the provision of larger shared bins.
9. The appellant contends that the site is located in proximity to two large parks which would mitigate the size of private external space. I have not been provided with any details of their location and at my site visit I did not see any public open spaces in the surrounding area and as such the weight I can attach to any such claims is limited.
10. The SPD is clear that proposals will not be supported where there is poor outlook onto unsightly areas. The windows from the proposed rear ground floor studio apartment in both Appeal A and B would look directly out towards the bin store and cycle spaces. These windows serve all of the habitable rooms of the rear studio apartment and given the small scale of the rear outdoor area and the resultant small separation distances between boundary walls, I consider that the outlook from the proposed studio apartment would be severely restricted, causing harm. This harm would not be overcome by the standard and maintenance of the proposed accommodation.

11. In respect of privacy, I am satisfied that, due to the height and positioning of the outbuilding as well as separation distances, there would be no overlooking from any rear windows serving habitable rooms of the appeal property into No 2 North Street.
12. However, the conversion of the outbuilding itself would give rise to overlooking of No 2. Specifically, while I am satisfied that there would be no direct overlooking from first floor level due to the height of the rooflights, the insertion of a number of windows to the front elevation at ground floor level of the proposed dwelling would allow occupants direct views over the low side boundary wall and into the rear garden area of No 2.
13. I accept that the proposed removal of the rear stair and doorways would be beneficial in respect of privacy, however, given the limited separation distance between the outbuilding and No 2, I consider that here the loss of privacy would be significant and, on balance, would not be outweighed by improvements elsewhere.
14. The appellant states that obscure glazing would be used. However, while this would prevent overlooking, this would restrict the outlook from this property for future occupants and as a habitable room, this would also cause harm.
15. Concluding on this main issue, both appeal schemes would result in harmful effects to the living conditions of future occupants as well as upon living conditions of occupants at No 2 North Street. Therefore, both appeals schemes would be in conflict with saved policies HG5 and ST1 of the Ashfield Local Plan Review 2002 (LP) which seek to protect amenity, including neighbours, and secure adequate private garden space. The proposal also would not accord with the standards set out in the SPD. Finally the proposal is in conflict with the National Planning Policy Framework (the Framework) which seeks to secure a high standard of amenity for all existing and future occupiers of land and buildings.

Character and Appearance

16. Outram Street forms the commercial centre of Sutton in Ashfield, and there are a number of buildings along its length, which are in a variety of ages and architectural styles. A number of commercial buildings, including No 79, have had later replacement shopfronts. No 79, is not listed or in a conservation area, however as a tall and historic building, I find that it is prominent in the street scene, making a positive contribution to the character of the area.
17. In both Appeal A and B, it is proposed to replace the existing green aluminium shopfront which also includes a separate doorway which provides access to the upper floors. The replacement would be a sectional grey aluminium frame with filled panels and glazing above. There would be a single doorway to access all of the proposed accommodation.
18. The existing shopfront is poor quality and the principle of its replacement is acceptable. However, the proposed design of the replacement is poorly articulated and would have little relationship with the proportions and architecture of the upper floors of the appeal property. This would therefore be an incongruous addition along the prominent frontage and would cause harm to the character and appearance of No 79 and the street scene as a whole.

19. I note the examples of other shopfronts in the area, including at No 76 Outram Street, as well as other converted premises. However, these examples also relate poorly to the host building and street scene and I do not consider that the presence of other poor quality replacement shopfronts should justify a further erosion of the character of the street scene that would arise from the appeal proposal.
20. It has been put to me that the design of the frontage could be dealt with by a condition. However, in light of the concerns over the design, I do not consider that it would be reasonable to do so as any changes would be likely to be significant and would be potentially prejudicial in terms of fairness to other potentially interested parties who may have wished to express a view on the design.
21. On this matter, I therefore conclude that the both appeals would cause harm to the character and appearance of the area and they would both fail to accord with saved LP Policy ST1 which permits development where it would not adversely affect the character or quality of the environment. The proposals would also be in conflict with the Framework, which seeks to secure high quality design, responding to local character and be visually attractive as a result of good architecture (paragraphs 17 and 58).

Other Matters

22. Cited benefits including the accessibility and location of the appeal property, as well as the absence of other impacts would not outweigh the harm I have identified in both Appeals A and B in respect of character and appearance and living conditions.
23. I note the appellants concerns in respect of an alleged lack of communication during the determination of the appeal. The appellant has also questioned the qualifications and experience of the Planning Officer who dealt with the applications. It is also understood that the Council's advice in respect of a scheme which would be suitable would not be acceptable to the appellant on the basis of viability.
24. However, in assessing both appeal schemes before me, as the appointed Inspector, I have found harm in respect of living conditions and character and appearance. Moreover, while no evidence has been put forward in respect of viability, I consider that any such details would be highly unlikely to alter my assessment of the proposals, which are based upon their planning merits.

Conclusion

25. For the reasons given above, taking into account all other matters raised, I conclude that both Appeal A and Appeal B should be dismissed.

C Searson
INSPECTOR