

Appeal Decision

Site visit made on 27 February 2017

by C L Humphrey BA (Hons) DipTP MRTPI

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

Decision date: 16th March 2017

Appeal Ref: APP/X1355/W/16/3165827

Peartree Cottages, High Wood View, Durham DH1 3FL

- 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 Eric Clark (Hedley Park Developments Ltd) against the decision of Durham County Council.
 - The application Ref DM/16/01467/FPA, dated 5 May 2016, was refused by notice dated 8 July 2016.
 - The development proposed is described as 'Extension to be added to the property and alterations made to the existing building.'
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Decision

1. The appeal is allowed and planning permission is granted for a house in multiple occupation (HMO) dwelling (Use Class C4) to side of existing HMO with internal alterations to existing premises at Peartree Cottages, High Wood View, Durham DH1 3FL in accordance with the terms of the application, Ref DM/16/01467/FPA, dated 5 May 2016, subject to the conditions set out in the Schedule to this Decision.

Procedural Matters

2. Notwithstanding the description of development set out in the banner heading above, which is taken from the application form, it is clear from the plans and accompanying details that the development comprises a separate dwelling. The Council's decision notice describes the development as "Erection of house in multiple occupation (HMO) dwelling (Use class C4) to side of existing HMO with internal alterations to existing premises" and I note that the appellant has used this description in the appeal statement. I have based my decision upon this revised description of development, as neither of the parties would be prejudiced or caused any injustice by me taking this course of action.

Main Issues

3. The main issues are:
 - (a) Whether the proposed development would preserve or enhance the character or appearance of the Durham City Centre Conservation Area;
 - (b) The effect of the proposed development upon the living conditions of the occupants of neighbouring residential properties on Boyd Street and High Wood View with particular regard to outlook and privacy, and upon the living conditions of occupants of the existing and proposed
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development at Peartree Cottages with particular regard to outdoor amenity space; and

- (c) The effect of the proposed development upon housing mix with particular regard to the concentration of houses in multiple occupation in the area and the effect on the range and variety of the local housing stock.

Reasons

Policy

4. Policies E6 (Durham City Centre Conservation Area), E22 (Conservation Areas) and Q8 (Layout of new residential development) of the City of Durham Local Plan (the Local Plan) are relevant to the consideration of the appeal proposal. Despite the age of these policies they remain consistent with the historic environment, design and amenity protection aims of the National Planning Policy Framework (the Framework) and as such I have accorded them full weight. Other relevant material considerations include Durham County Council's Interim Policy on Student Accommodation (the Interim Policy), the Framework and the Planning Practice Guidance (the PPG).
5. With regard to the 3 main issues set out above, the Council's second and third reasons for refusal make reference to conflict with Local Plan Policy H9. However, this policy relates to the sub-division or conversion of houses for flats, bedsits or for multiple occupation, or proposals to extend or alter properties already in such use. The appeal scheme relates to the erection of a new separate dwelling falling within Use Class C4, and therefore I do not consider that the provisions of this policy are relevant to the proposed development. Accordingly, I have not had regard to Local Plan Policy H9 in the determination of this appeal.
6. In the first reason for refusal, in respect of the effect of the appeal proposal upon the living conditions of the occupants of neighbouring residential properties, the Council refers to conflict with Local Plan Policy Q9. This policy relates to proposals for alterations and extensions to residential property whereas the proposed development is a new separate dwelling. As such, I find that the provisions of Local Plan Policy Q9 are not relevant to the appeal proposal and therefore I have not had regard to it in considering the second main issue.

Character and appearance

7. The appeal site is situated between High Wood View and Boyd Street within the Durham City Centre Conservation Area (the Conservation Area). The surrounding area is characterised by the dense built form of the 2 storey Victorian terraces to the north and south, softened by the greenery within St Oswald's Cemetery to the east.
8. The site was formerly occupied by a workshop building dating from the same period as surrounding terraces. This was demolished to make way for a new pair of dwellings (Use Class C4) known as 1 and 2 Peartree Cottages, a modest single storey development with accommodation within the roof space which appears subordinate to the neighbouring larger scale terraces. The Council states that the appeal site holds no value in terms of the historic layout of the area or in the understanding of how the area has developed, and confirms that its significance is drawn purely from its location within the designated area to

which its contribution is considered neutral. Based upon the evidence before me and my observations on site, I have no reason to take a different view.

9. It is proposed that an additional dwelling, also in Use Class C4, would be erected adjoining the existing western elevation. The proposed development would reflect the existing building's subordinate scale, simple form, design and fenestration pattern and restrained palette of traditional materials. Many of the terraced properties in the surrounding area have accommodation within their substantial steeply pitched roofs, and the appeal proposal would reflect this established built form. Moreover, the uniform appearance of the proposed development, which would continue the front and rear building line, eaves and ridge line of the existing building, would echo the strong building and roof lines of adjacent terraces.
10. The site is screened by the surrounding densely packed development and high boundary treatment. As a result, the appeal proposal would only be partly glimpsed from the access road between 7 and 8 High Wood View and from adjoining back lanes.
11. For the reasons set out above, I conclude that the proposed development would have a neutral effect on the significance of the designated heritage asset and would therefore preserve the character and appearance of the Durham City Centre Conservation Area. As such, the appeal proposal would accord with the design and heritage conservation and enhancement aims of Policies E6 and E22 of the Local Plan and Parts 7 and 12 of the Framework.

Living conditions

12. The rear elevations of neighbouring terraces to both the north and south face the appeal site. The proposed development would adjoin the northern boundary of the site, running parallel to the terrace on Boyd Street with a back lane in between. The houses at 11 and 13 Boyd Street each have 2 storey offshoots at the rear with habitable room windows at first floor level which overlook the site. These windows would be situated in fairly close proximity to the appeal proposal. However, no habitable room windows are proposed in the rear elevation or rear roof slope, thereby protecting the privacy of neighbouring occupiers. The subordinate single storey scale of the proposed development, with the pitched roof sloping away from the northern boundary, would ensure that it would not appear overbearing or have an adverse effect upon outlook from Nos 11 and 13.
13. The appeal site increases in depth at its western end. Therefore, the spacing between the proposed development and the terrace on High Wood View to the south would be considerably greater than the spacing that exists between Nos 1 and 2 and the eastern end of the terrace. A number of habitable room windows are proposed on the front elevation of the building. These would look towards the rear of the terrace on High Wood View. However, the spacing between the buildings, the difference in levels between the respective sets of first floor windows and the screening on the boundaries would protect the privacy of occupants, and the subordinate scale and recessive roof form would prevent an overbearing effect or loss of outlook.
14. I do not have full details of the scheme relating to land to the south of Oakfield Crescent. However, with regard to the application of distance standards, I note that the Inspector in that case found that each situation should be considered

on its own merits and in relation to the specific relationship between the windows of the buildings. I agree. I am required to reach conclusions based on the individual circumstances of this appeal, and have done so. I therefore afford this matter little weight.

15. Turning to the matter of outdoor amenity space to serve both the existing and proposed development on the appeal site, I observed during my site visit that the external area is laid to hard surfacing and gravel and appeared to be used solely for car parking rather than providing any amenity function for occupants of Nos 1 and 2. I note that the Council has no objection to the proposed car parking arrangements, and adequate space would be provided for bin storage within the appeal site. Moreover, an additional area of soft landscaping is proposed adjacent to No 1, which would serve to increase the amenity function of the site, and the remaining outdoor space would be more generous than that which exists within the curtilages of neighbouring terraced properties.
16. For the reasons given above, I conclude that that proposed development would not have a harmful effect upon the living conditions of the occupants of neighbouring residential properties on Boyd Street and High Wood View with particular regard to outlook and privacy, or upon the living conditions of occupants of the existing and proposed development at Peartree Cottages with particular regard to outdoor amenity space. Therefore, the appeal proposal would accord with the design and amenity protection aims of Local Plan Policy Q8 and Part 7 of the Framework.

Housing mix

17. The Interim Policy states that in order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for, among other things, new build Houses in Multiple Occupation (both C4 and sui generis) will not be permitted if more than 10% of the total number of properties within 100m of the application site are already in use as HMOs or student accommodation exempt from council tax charges.
18. The submitted evidence demonstrates that 61.8% of properties within 100m of the appeal site are in use as HMOs or student accommodation and, in the area immediately surrounding the site, this figure is considerably higher. In the context of such a high concentration of HMO and student accommodation, I consider that the effect of one additional HMO would be negligible. Such circumstances are recognised in Part A(e) of the Interim Policy, and I have not been provided with any evidence to demonstrate what harm would arise from the proposed development in terms of the concentration of HMOs. Moreover, the appeal proposal would create a new dwelling within Class C4 rather than result in any change to the existing housing stock.
19. Whilst I note there is an Article 4 Direction in Durham City which withdraws permitted development rights in respect of changes of use from Class C3 to Class C4, this does not relate to new development. Accordingly, I have given this matter little weight.
20. For the reasons set out above I conclude that the proposed development would not have a harmful effect upon housing mix with particular regard to the concentration of houses in multiple occupation in the area and the effect on the range and variety of the local housing stock. Therefore, the appeal proposal would not be contrary to the overall aims of the Interim Policy or Part 6 of the

Framework with regard to the creation of sustainable, inclusive and mixed communities and the maintenance of an appropriate housing mix.

Conditions

21. I have considered the Council's suggested conditions against the tests set out within paragraph 206 of the Framework and the advice provided by the PPG, and have amended them where necessary in order to meet these tests.
22. I have imposed a condition specifying the relevant drawings as this provides certainty. In order to ensure the suitable appearance of the development, I have imposed a condition relating to materials. I have imposed a condition restricting the times at which construction activities can be undertaken to protect the living conditions of neighbouring residents. A condition restricting permitted development rights in relation to the introduction of habitable room windows in the north elevation of the development is necessary in order to preserve the privacy of the occupants of neighbouring residential properties.

Conclusion

23. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

CL Humphrey

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site location plan
 - Drawing No 887 - 01 Existing Floor Plans, Site Plan and Elevations
 - Drawing No 887 - 02 Proposed Floor Plans
 - Drawing No 887 - 03 Proposed Floor Plans, Site Plan and Elevations
- 3) Demolition or construction works and associated deliveries audible at the site boundary shall take place only between 08:00 and 18:00 hours Monday to Friday and between 08:00 and 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 4) Notwithstanding the approved plans, prior to the commencement of any superstructure works on site, details and samples of the materials to be used in the construction of the external surfaces of the walls and roof of the development hereby permitted shall be submitted to and approved by the local planning authority in writing. The development hereby permitted shall be carried out and thereafter retained in accordance with the approved details and samples.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification) no habitable room windows shall be introduced into the north elevation of the development hereby permitted.