
Appeal Decision

Site visit made on 14 February 2017

by I Jenkins BSc CEng MICE MCIWEM

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

Decision date: 23 March 2017

Appeal Ref: APP/M4510/W/16/3162160

Premier Ice Cream Company, Westerhope, Denton Grove, Newcastle-upon-Tyne, NE5 2LS

- 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 Yousef Mohammed against the decision of Newcastle-upon-Tyne City Council.
 - The application Ref 2015/0356/01/DET, dated 18 December 2014, was refused by notice dated 2 August 2016.
 - The development proposed is demolition of existing factory and erection of 2-storey block containing 3 x 2-bed flats and 2 x 1-bed flats (class C3) with associated access, 9 space car park and landscaping.
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Decision

1. The appeal is dismissed.

Procedural matters

2. The proposed development is described on the planning application form as '*erection of 1 no. block containing 6 no. apartments with associated external works*'. However, it is clear that changes were made to the scheme while the application was with the Council for consideration and both the Council's decision notice and the appeal form indicate that the final scheme upon which the Council's decision was based was '*demolition of existing factory and erection of 2-storey block containing 3 x 2-bed flats and 2 x 1-bed flats (class C3) with associated access, 9 space car park and landscaping*'. I have taken this into account and used that revised description in the summary information above.

Main Issues

3. I consider that the main issues in this case are the effect of the proposal on: the living conditions of neighbouring residents and future occupants of the proposal, with particular reference to outlook, privacy and external amenity space; and, the character and appearance of the locality.

Reasons

Living conditions

4. The main section of the appeal site, which is accessed along Denton Grove, is broadly L-shaped, wrapping around the northern side and part of the eastern
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side of Serin House. To the east of Serin House, the site contains a derelict single-storey building, which would be replaced by a block of flats, 2-storeys in scale with second floor accommodation within the roof space. The northern section of the site would accommodate car parking and garden areas.

5. A large supermarket building is set back from the southeastern corner of the site by a short distance and its plant area, with a vehicle turning/unloading area beyond, adjoins the eastern boundary of the site. As a result, views from the windows contained within the southern sidewall of the proposed block of flats would be dominated by the neighbouring supermarket building. At ground floor level, these would include the windows serving the kitchen/dining/living area of proposed flat no. 2 as well as one of the windows serving its bedroom. The other bedroom window of flat no. 2 would face directly towards the palisade fenced, plant area. At first floor level, it would include 3 of the 4 windows serving the living room/kitchen of proposed flat no. 4. I consider that the neighbouring supermarket building would appear overbearing when seen from those proposed flats and overall, the outlook from them would be poor.
6. The 2-storey western elevation of the proposal would face towards part of the eastern elevation of Serin House, which contains a number of habitable room windows at ground floor level. Due to its close proximity, width and height the proposed building would be likely to significantly increase the sense of enclosure experienced by residents of Serin House when using the rooms served by those windows. I regard it as overdominant and unneighbourly.
7. Although the western elevation of the proposal, which would face towards Serin House over a short distance, would contain a number of windows serving bathrooms of the proposed flats, imposition of a condition to ensure that they are glazed with obscured glass and fixed shut would adequately safeguard neighbouring residents from overlooking. Furthermore, it appears to me that the proposed areas of shared private garden within the site would provide future residents of the appeal building with a satisfactory level of external amenity space.
8. Nonetheless, I conclude overall, that the proposal would cause significant harm to the living conditions of neighbouring residents and future occupants of the appeal building, with particular reference to outlook. In this respect it would conflict with Policies H2, H4 and EN1.1 of the *Newcastle upon Tyne Unitary Development Plan, 1998 (UDP)*, which are consistent with the aims of the *National Planning Policy Framework* (the Framework) insofar as they seek to secure a good standard of amenity for all existing and future occupants of land and buildings. It appears to me that Policy CS15 of the *Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne, 2015 (CS)*, which is primarily concerned with aspects of place-making, such as character and appearance, is of little relevance in relation to this main issue.

Character and appearance

9. The proposed 2-storey block would be broadly comparable in both scale and massing to the row of closely spaced semi-detached houses situated immediately to the north of the site and smaller in those respects than the 3-storey Serin House. In this context, the scale and massing of the proposed development would not look out of place.

10. The elevations of Serin House and the dwellings to the north that face the site are characterised by the brickwork façades punctuated by glazed openings, whereas the elevations of the supermarket building visible from the site are characterised by relatively plain façades of brickwork and cladding. The front wall of the proposed building would be devoid of habitable room windows, thereby avoiding an adverse impact on the privacy of residents of Serin House. However, the detailing of the western elevation would include a centrally positioned 2-storey area of glazing, allowing light into the building entrance and stairway, with a mix of masonry and cladding panels on either side. This would break up the frontage and provide the façade with a satisfactory level of interest. The other elevations of the building would contain a more traditional pattern of habitable room windows.
11. I conclude that the effect of the proposal on the character and appearance of the locality would be acceptable and, in this respect, it would not conflict with UDP Policies H2, H4 and EN1.1 or CS Policy CS15, which are consistent with the aims of the Framework as regards seeking to ensure that development responds to local distinctiveness and character.

Other matters

12. The appellant has provided a *Noise Assessment* by Northburn Acoustics, dated 17 June 2016, which has particular regard to the potential noise impacts associated with the adjacent supermarket plant area and vehicle turning/unloading areas. It indicates that it would be possible, through the imposition of conditions to secure appropriate sound insulation measures, to ensure that the noise environment within the proposed flats would be acceptable. I have not been provided with any evidence to the contrary.
13. Whilst the removal of the existing derelict building would improve the appearance of the site, I give this little weight, as to do otherwise could give encouragement to landowners seeking a beneficial permission not to manage their land in a diligent manner. In my judgement, neither this nor any other matters raised are sufficient to outweigh the considerations which have led to my conclusions on the main issues.

Conclusions

14. Notwithstanding my findings concerning the effect on the character and appearance of the locality and a number of other matters, I conclude on balance that any benefits of the scheme would be significantly and demonstrably outweighed by the harm that it would cause to the living conditions of neighbouring residents and future occupants of the appeal site. In my judgement, the proposal would not amount to sustainable development under the terms of the Framework. Furthermore, it would conflict with the development plan taken as a whole.
15. For the reasons given above, I conclude that the appeal should be dismissed.

I Jenkins

INSPECTOR