The Planning Inspectorate

# Appeal Decision

Site visit made on 10 September 2019

**by Darren Hendley BA(Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 23 September 2019**

**Appeal Ref: APP/M4510/W/19/3232288**
**38 Adelaide Terrace, Newcastle Upon Tyne NE4 8BL**

- 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 Najeb Koser against the decision of Newcastle City Council.
- The application Ref 2018/1605/01/DET, dated 30 October 2018, was refused by notice dated 3 May 2019.
- The development was originally described as an "alteration to previously approved planning application reference 2017/0272/01/DET for erection of extension to ground floor public house (Class A4) to be used as retail unit (Class A1), erection of infill extension and extension to roof including dormer windows to front, side and rear to convert ancillary accommodation to 6 flats (Class C3) with refuse storage and cycle storage at ground floor and alterations to elevations as amended. To included *(sic)* for two additional apartments at first floor, revisions to internal room arrangements and associated elevational alterations."

## Decision

1. The appeal is allowed and planning permission is granted for the erection of an extension to the ground floor public house (Class A4) to be used as a retail unit (Class A1), erection of an infill extension and an extension to the roof including dormer windows to the front, side and rear to convert ancillary accommodation to 8 flats (Class C3) with refuse storage and cycle storage at ground floor and alterations to the elevations at 38 Adelaide Terrace, Newcastle Upon Tyne NE4 8BL in accordance with the terms of the application, Ref 2018/1605/01/DET, dated 30 October 2018, subject to the conditions in the attached schedule.

## Procedural Matters

2. The description of development in the banner heading above has been taken from the planning application form. Both the appeal form and the Council's decision notice sets out a different wording which reads as the "erection of extension to ground floor public house (Class A4) to be used as retail unit (Class A1), erection of infill extension and extension to roof including dormer windows to front, side and rear to convert ancillary accommodation to 8 flats (Class C3) with refuse storage and cycle storage at ground floor and alterations to elevations as amended." I have considered the appeal on this basis as it provides a more accurate description of the development that is before me to consider. This is also reflected in the description in my decision paragraph, excluding the superfluous elements.

3. It was apparent from my site visit that the development has commenced, although the works are not yet complete. Amended plans were submitted to

the Council during the application that I am told that sought to correct errors in the original plans. The Council made its decision on the basis of these plans and, accordingly, so have I. In the event that the plans do not entirely reflect what has been built on site, that is a matter for the main parties.

## Main Issues

4. The main issues are the effect of the development on (i) the character and appearance of the building and the area; and (ii) the living conditions of the occupiers of Cochrane Court by way of privacy.

## Reasons

*Character and Appearance*

5. The appeal property is a large and prominent building which lies on a corner of Adelaide Terrace. It maintains somewhat of a grand and ornate presence in the streetscene, including through its size and a number of pleasing external decorative features. Prior to the works that have already been undertaken, the submitted plans indicate the building was of a two storey height with a traditional pitched roof. The works that have taken place involve most noticeably a mansard roof and dormer windows, and as is indicated on the amended plans.

6. Adelaide Terrace contains a mix of Victorian terraces with more modern development, which are predominately in commercial or community related uses. The more traditional terraces are still largely intact with more typically imposing buildings found on corner positions. Dormers are not an uncommon feature on these buildings.

7. The alteration of the roof to a mansard arrangement does not unduly add to the bulk of the roofspace as it appears in proportion to the remainder of the building, with its overall size. The dormer windows, whilst not insignificant in number, also do not create undue additional massing in the roof as they are set down from the main roof pitch and are fairly regularly spaced out.

8. The double width dormers on the front elevation contribute to a coherent appearance as they are similar in size to the first floor windows. There are also considerably larger bay windows at ground floor level on this elevation. Accordingly, these dormers do not appear out of place.

9. Moreover, it is a characteristic of the traditional terraces on this part of Adelaide Terrace that the corner buildings do draw attention to themselves, including through the use of dormers. This distinguishes such buildings from those on a smaller or more of a domestic scale. The development contributes favourably towards this attribute of local character.

10. The rear of the buildings along Adelaide Terrace maintain more of a subservient appearance. Even with the dormers, however, such an appearance is largely maintained on the rear elevation of the appeal property, when its overall appearance is considered. In my view, a castellated roof form does not result at the rear because it is still evident that it is a mansard roof with dormers positioned along it.

11. Taking these considerations together, the development does not result in an overly dominant building because it reflects its role as a prominent feature on a

corner plot in the streetscene. As such, I conclude that the development does not have an unacceptable effect on the character and appearance of the building and the area.

12. The development, thus, complies with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030 (2015) (CS) and with 'Saved' Policies EN1.1 and H2 of the Newcastle upon Tyne Unitary Development Plan (1998) (UDP) which concern high quality and standards of design, responding positively to local distinctiveness, integrating development into its setting and protecting the character of the locality, amongst other considerations. The development also complies with 'Saved' Policy H4 of the UDP which the Council has raised in its Statement in relation to a high quality of design in all housing developments.

13. The development also accords with the National Planning Policy Framework (Framework) where it concerns achieving well designed places, in particular where it identifies good design as a key aspect of sustainable development, and that development should be visually attractive and establish or maintain a strong sense of place.

*Living Conditions*

14. Cochrane Court lies to the rear of the appeal property. The habitable room windows in the front elevations of these dwellings face over their front gardens towards the appeal property. The distance is approximately 18 metres. In between also lies a roadway, including associated footways and a pull-in area on the side of the appeal site.

15. The Cochrane Court properties are fairly modest sized and are 2 storey in height. The dormer windows in the rear of the appeal building effectively face over their roof areas as they are situated above the front elevation windows. As a consequence, the potential for overlooking into the associated rooms is not of a significant nature.

16. The Council has referred to guidance[1] that states the separation distances in these circumstances should be 28 metres. Even though the Council has acknowledged this guidance carries limited weight, in any event, it permits flexibility in applying such distances. It states that their application will take into account the spaciousness and character of existing neighbourhoods, which should normally be reflected in the design of new development, amidst other matters.

17. The location of Cochrane Court is such a case in point because of its proximity to buildings on and around the appeal site. As such, the separation distances set out in the guidance are unlikely to be achieved in such a location. Rather, the effect on living conditions needs to be considered in this context and principally due to the difference in height between the dormers and Cochrane Court, this is not unacceptable as regards privacy.

18. Both main parties have referred to an approved scheme[2] for 6 apartments in the appeal property. The Council has pointed out it applied flexibility in separation distances when approving this scheme. The appellant has referred to a lack of neighbour objection. The development before me, though, is to be

[1] Development Control Policy Statement 17
[2] Council ref: 2017/0272/01/DET

considered on its own merits with regard to the relevant planning considerations. I am also not persuaded that, compared to the approved scheme, the increased number of units that is before me to consider results in an undue level of overlooking, for the reasons that I have explained.

19. I conclude that the development does not have an unacceptable effect on the living conditions of the occupiers of Cochrane Court by way of privacy. Therefore, it complies with 'Saved' Policy EN1.1 of the UDP where it relates to minimising adverse impacts on nearby land uses and with Policy CS15 of the CS, as far as this is relevant to living conditions. The Council's Statement has also raised Policy CS14 of the CS and 'Saved' Policies H2 and H4 of the UDP in relation to this matter. It also complies with these policies where they concern privacy and protecting residential amenity.

20. The development also accords with the Framework where it sets out to ensure a high standard of amenity for existing and future users.

**Other Matters**

21. A number of other matters have been put forward by the parties concerning benefits of the scheme, viability, the 'fallback' position of the approved scheme, and negotiations which have been undertaken. As I have found that the development complies with the development plan and is not unacceptable, I do not have cause to consider these matters further.

**Conditions**

22. As the development is not as yet complete, I have imposed a condition concerning the approved plans in the interests of certainty (1). In order to differentiate the amended version of plan no. 1647 03 from the originally submitted version, I have indicated it is as amended.

23. I have also imposed conditions in relation to refuse storage, in the interests of living conditions and highway safety (2); noise insulation, also in the interests of living conditions (3); and cycle parking, in the interests of highway safety (4). These matters are to be implemented prior to the development being brought into use. I have not imposed a condition for the usual time limit for implementation, as the development has already commenced.

24. The Council requested details to be submitted for approval in relation to refuse storage and cycle parking. These are already shown, though, in sufficient detail on the submitted drawings, and so the conditions are to ensure they are fully implemented in accordance with the drawings and thereafter kept available for these purposes. Where I have altered the wording of the conditions put forward by the Council, I have also done so in the interests of precision.

25. The Council also requested a condition which removed permitted development rights for the future insertion of windows or dormers. There are, though, no such rights under Part 1 Development within the curtilage of a dwellinghouse. The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for development within the curtilage of a building that is in mixed use with one or more flats. Hence, such a condition is not necessary.

## Conclusion

26. For the reasons set out above, the appeal should be allowed and planning permission be granted, subject to the conditions.

*Darren Hendley*

INSPECTOR

## Schedule of Conditions

1) The development hereby permitted shall be carried out in accordance with the following approved plans: 1647 02 A, 1647 03 (as amended), 1647 04.

2) The development shall not be brought into use until space has been laid out within the site in accordance with drawing no. 1647 02 A for refuse storage facilities and that space shall thereafter be kept available for refuse storage facilities.

3) The development shall not be brought into use until sound insulation against external noise has been provided to achieve internal bedroom levels of 30dB(A) and internal living room levels of 35dB(A) with windows shut and other means of ventilation provided. Thereafter, the sound insulation shall be retained in accordance with this standard.

4) The development shall not be brought into use until space has been laid out within the site in accordance with drawing no. 1647 02 A for bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.