
Appeal Decisions

Site visit made on 31 July 2019

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 July 2019

Appeal A Ref: APP/X1355/W/18/3217702

William Robson House, Claypath, Durham DH1 1SA

- 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, Hillcrest NW Ltd against the decision of Durham County Council.
 - The application Ref DM/18/00112/FPA, dated 15 January 2018, was refused by notice dated 4 June 2018.
 - The development proposed is the conversion of attic roof space to form 10no 1-bed studio apartments (C3 housing) and insertion of new windows in the west elevation to form 6no 1-bed studio apartments (C3 housing).
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Appeal B Ref: APP/X1355/W/18/3217704

William Robson House, Claypath, Durham DH1 1SA

- 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, Hillcrest NW Ltd against the decision of Durham County Council.
 - The application Ref DM/18/00114/FPA, dated 15 January 2018, was refused by notice dated 4 June 2018.
 - The development proposed is the conversion of the existing lower ground floor and ground floor car deck together with an additional floor and attic roof space to form 28 no.1-bed studio apartments.
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Decision

1. The appeals are dismissed.

Preliminary Matter

2. As set out above, there are two appeals relating to the William Robson House site and the development proposed is for the conversion and development of parts of the site to create studio apartments. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated. For clarity I have labelled the first scheme Appeal A and the second, relating to the car park, Appeal B.

Main Issues

3. The main issues are:
 - whether or not the proposed development would provide satisfactory living conditions for future occupiers of the proposed development, with

particular regard to internal living space and, with regards Appeal B only, daylight and sunlight, and;

- the effect of Appeal B on the living conditions of the occupiers of neighbouring properties.

Reasons

4. It is not at dispute between the parties that paragraph 11 of the National Planning Policy Framework (the Framework) that requires the granting of permission unless *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole* applies in respect of the proposed development and based on the evidence before me I see no reason to reach a different conclusion.

Living Conditions

5. The appeal site includes a vacant office building and car park, I understand that prior approval consent exists for the conversion of parts of the existing building to create a number of 1 and 2 bed studio apartments. The appellant has specifically confirmed that the studio apartments proposed to be created in these appeals are to be Use Class C3 Dwelling houses and would not be occupied solely by those in full time education.
6. The Council states that the size of the proposed studio apartments shown on the submitted plans are below the standards set out in the Technical Housing Standards – Nationally Described Space Standards (the Space Standards). Be that as it may, while the council has referred to Saved Policy Q8 of the City of Durham Local Plan (the LP) this Policy does not set out requirements in relation to the size of residential accommodation and from the information before me, I cannot identify an adopted policy that relates to the size of residential accommodation.
7. Both parties have referred to parts of the Written Ministerial Statement (25 March 2015) (WMS). The WMS seeks to implement the Space Standards through local plan policy. In the absence of a relevant adopted local plan policy relating to the internal space standards to which the Space Standards could be applied, I have consequently considered the appeal scheme on its merits in terms of the overall quality of the residential accommodation as shown on the submitted plans and reports before me.
8. The Case Officer's report details that the proposed 16 No. 1 bedroom studio apartments of Appeal A are between *15.5sq metres and 29sq metres and comprise a single room with cooker, sink, wardrobe and double bed with separate WC and shower and are served by a single external window*.
9. With regards Appeal B, the submitted plans are annotated to show the studio apartments are between 22sq metres and 29sq metres. An indicative layout of one of the apartments shows a layout similar to that detailed above in respect of Appeal A.
10. The indicative room layout detailed on the proposed plans show very limited space not already occupied by essential furniture, such as the bed, bathroom and compact kitchen. The layouts show very limited occupant or guest seating, other than a single chair at a table and a single chair at a desk at which to eat

or work. The introduction of any additional seating for relaxation purposes or other domestic paraphernalia, as would typically be expected in an independent dwelling, would compromise the remaining and already severely limited circulation space.

11. The appellant details that the proposed development would create new residential accommodation in a city centre location and would serve residents whether or not in full-time education at affordable rents. However, I do not have any details as to the proposed rents or a mechanism to ensure affordability, I therefore give this matter very limited weight.
12. As a result of the severely limited internal living space of the proposed apartments, I find that the size of the proposed studios would not provide adequate living conditions for future residents. This is contrary to Saved LP Policy Q8 that seeks to ensure new development provides adequate amenity space for each dwelling and the provisions of the National Planning Policy Framework at paragraph 127, that seeks a *high standard of amenity for existing and future users*.
13. In relation to Appeal B, I observed at my site visit that the rear elevation of the proposed residential units would be in close proximity to the existing trees. Furthermore, the existing canopy spread of the trees would cause shading across much of the elevation.
14. I acknowledge that, as a result of the orientation of the proposed elevation, available sun and day light would be maximised. Nevertheless, the submitted plans show that the apartments on this side of the proposed property would be single aspect and therefore entirely reliant upon this elevation for natural day and sunlight. Therefore, I consider that the shading and the close proximity of the tree canopy to the proposed dwellings and specifically to a number of single aspect habitable room windows would have a significantly detrimental impact upon the living conditions of the occupiers of those residential units.
15. This would in turn inevitably bring with it a risk of pressure to fell the trees from future residents of the proposed scheme. The trees are in an elevated and prominent position and they contribute positively to the verdant character and appearance of the area.
16. The appellant states that the trees could be pruned and have ivy removed in the future as part of ongoing maintenance works however, I have no substantive evidence before me to suggest that this would substantially change the existing situation.
17. For the reasons detailed above I find that the proposed development would not provide satisfactory living conditions for future occupiers of the proposed development, with particular reference to internal living space and, with regards Appeal B, sunlight and daylight contrary to Saved Policy Q8 of the LP with regards amenity space and paragraph 127 of the Framework and would lead to pressure in the future to fell the trees contrary to Saved LP Policy E14 in so far as it relates to the retention of trees.

Impact of Appeal B on Neighbours

18. I have very limited information with regards the effect of the proposed development on the occupiers of the adjacent properties at Blue Coat Court. Notwithstanding this, the Case Officer's report details the proposed

development would introduce a gable elevation approximately 9.1 metres in height and situated 2.3 metres from 1 Blue Coat Court.

19. I note that the proposed development does not include any windows on the elevation facing towards Blue Coat Court and there is some similarity between the height of the proposed building and existing nearby buildings outside of the appeal site. However, the submitted plans show that the proposed building would project a significant distance forwards of the front elevation of No.1 towards the second residential block on Blue Coat Court dominating this area, that is largely given over to access, car parking and some limited private outside space.
20. The appellant has highlighted the positive pre-application advice received from the Council prior to submitting the proposals. Whilst it is unfortunate that a different view was reached in the determination of the application, pre-application advice is not binding. Furthermore, I acknowledge the positive comments from the Design & Conservation Officers in response to the application but note that these do not relate to the effect of Appeal B on the living conditions of the occupiers of adjacent dwellings.
21. This is a very finely balanced decision, but I conclude that the proposed development would have a detrimental impact on the living conditions of the occupiers of neighbouring properties contrary to Saved LP Policy H13 in so far as it relates to the amenity of neighbouring residents.

Other Matters and Planning Balance

22. The appeal site lies within the extensive Durham City Centre Conservation Area (CA) and is situated to the rear of a number of listed buildings that front on to Claypath. The significance of the CA lies in the architectural diversity of the surviving historic building stock, modest Victorian terraced houses and the juxtaposition of traditional buildings with more modern developments.
23. I have a statutory duty under section 66(1) and Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving the setting of listed buildings and preserving or enhancing the character or appearance of the conservation area respectively.
24. It is not at dispute between the parties that the proposed development would have no impact on the setting of the listed buildings or the character or appearance of the Conservation Area, and on the basis of the evidence before me I see no reason to come to a different view. However, the absence of harm is a neutral effect and does not weigh in favour of the proposal.
25. The proposed development would bring a currently unoccupied site back into use, would make a modest contribution to the overall supply of housing in Durham and would create some direct and indirect economic benefits. In the context of the current housing land supply situation, I give these matters some weight, but they do not outweigh the harm I have previously identified.
26. Taking all of the above into account, I consider that the harm identified significantly and demonstrably outweighs the modest benefits when assessed against the policies in the Framework when taken as a whole. With regards paragraph 11 of the Framework, the proposal cannot therefore be considered to be sustainable development.

Conclusion

27. Taking all matters into consideration I conclude that the appeal should be dismissed.

Mark Brooker

INSPECTOR