



Appeal Decision

Site visit made on 7 November 2019

by D Child BA BPL MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 February 2020

Appeal Ref: APP/J4423/W/19/3235759

Unit 1 Rear of 430 Abbeydale Road, Sheffield S7 1FQ

- 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 Mohammed Sabir against the decision of Sheffield City Council.
 - The application Ref 19/01075/FUL, dated 21 March 2019, was refused by notice dated 3 June 2019.
 - The development proposed is for the change of use of a workshop/stores to dwelling family house.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Because it more accurately describes the location of the development, I have taken the site address from the appeal form which the Council has used on its decision notice.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of future occupants of the development, having regard to outdoor amenity space, outlook and aural amenity.

Reasons

4. The site is located within a shopping area, facing a rear yard with single storey units to the west, behind terraced properties which front the A621 Abbeydale Road, and which have commercial uses at ground floor. The site backs onto a business named Swifties, selling reclaimed building materials and garden supplies. The proposal is for a dwelling that would have an outlook from windows across the rear yard and the units.
5. Guideline 4 of the Council's Designing House Extensions Supplementary Planning Guidance (the SPG) states that in most circumstances the Council considers a garden size of 50m² the minimum for a two, or more bedroom house. Although the proposal is not for an extension, it provides a useful guide. The dwelling would have two bedrooms, but it would not have any garden. Instead, it would share a small first floor balcony with No 430 Abbeydale Road, accessed from a first-floor landing. As a result, it would not be private. While flats in the City centre are not always expected to have outdoor amenity space, the proposal is for a dwelling and it is not located in the City centre.

6. The appellant states they would be prepared to demolish one of the units in the courtyard to provide additional outdoor amenity space. However, that is not the proposal before me. Furthermore, I am mindful that this would change the substance and form of the development, on which neighbours would not have the chance to comment. The use of conditions to require this would not therefore be appropriate. I acknowledge the proposal is that the appellant's children would occupy the dwelling, and they do not intend to bring up a family in the building. However, the proposal is for a family dwelling, and I cannot be certain they will always be the occupants, or that future occupants would not have a family. In my assessment the small shared balcony would not provide a satisfactory level of outdoor amenity space to serve a family dwelling.
7. Because the adjacent units are single storey, they would not be overbearing in the outlook from the proposed dwelling, which would receive acceptable levels of daylight. The existing flat overlooks the yard, and the appellant states that the units have not been used for the repair of vehicles for over a decade; they have only been used for the storage of personal items. Crash damaged vehicles parked in the yard are due to the misfortune of family members, who have used the land to store vehicles following accidents. Furthermore, the leases of adjoining businesses only grant permission for access to bins.
8. However, there is insufficient evidence to confirm the lawful use of the units and the yard, and there is no mechanism before me to restrict their future sale. The use of conditions to prevent parking of vehicles on the yard would not be appropriate, because I cannot be certain they would be enforceable, or therefore meet the legal tests for the use of conditions. Furthermore, the dwelling would be single aspect. On this basis, I cannot rule out the potential for activity associated with the use of the adjacent units and yard to result in unacceptable harm to the outlook and aural amenity of future occupants.
9. While I acknowledge the Council's concerns over the absence of conditions governing the adjacent builders' merchants there is no evidence of any noise complaints. Flats to the east have a similar relationship and there would be no window openings on the rear of the dwelling, and a high brick wall would acoustically buffer the shared outdoor seating area from noise. Furthermore, were the appeal to be allowed, a planning condition could preclude the subsequent insertion of windows openings without an application. However, these considerations do not overcome the harm I have identified above.
10. It has been put to me that it would be a matter for future occupants to decide whether or not to accept the living conditions of the development proposed, and that the appellant's family would accept them. While this may be, it is not reason to approve development that would provide unacceptable living conditions for future occupants, or to set aside the development plan.
11. For the above reasons, I find that the proposal would have a harmful effect on the living conditions of future occupants of the development, having regard to outdoor amenity space, outlook and aural amenity. The proposal would therefore conflict with Policy S10 of the Sheffield Unitary Development Plan 1998 (the UDP). Amongst other things, this policy requires that in shopping areas, new development or a change of use will be permitted, provided that it would not cause residents or visitors in housing to suffer from unacceptable living conditions, including noise. It would also conflict with the minimum garden size expectations set out in the SPG.

12. The proposal would also be at odds with Paragraph 127 f) of the National Planning Policy Framework (the Framework), which, amongst other things, requires that planning policies and decisions should ensure that developments create places with a high standard of amenity for existing and future users.

Other Matters and Considerations

13. While I note the concerns of neighbours in relation to a large tree to the north of the site that might have implications for structural integrity and cause nuisance, this tree has since been removed.
14. The Council states it cannot demonstrate a 5-year supply of housing land (4.5 years). Although it is not for affordable housing, against this background the proposal would add one unit to the local supply of housing. The proposal would partially re-use a previously developed site and align with the broad thrust of the Framework to boost the supply of housing. Furthermore, Paragraph 68 states that small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly. However, given the scale of the proposal these benefits would be small, and I therefore give them limited weight.
15. The scheme would provide the appellant a home for a family member. However, as this is primarily a private benefit, I give it little weight. There would also be some economic benefits during conversion and through the local expenditure of future occupants, to which I attach limited weight in view of the developments small scale. The combined weight of these considerations would not therefore be significant.

Conclusion and Planning Balance

16. The proposal would have some benefits to which limited weight is attached. On the other hand, I have found that the proposal would result in unacceptable harm to the living conditions of future occupants, and conflict with the development plan. The adverse impacts of granting permission would therefore significantly and demonstrably outweigh the benefits.
17. For the above reasons, the appeal should be dismissed.

D Child

INSPECTOR