The Planning Inspectorate

Appeal Decision

Site visit made on 21 July 2020

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2020

Appeal Ref: APP/M4510/W/20/3248067
69 Rear of Alwinton Terrace, Gosforth, Newcastle upon Tyne NE3 1UD

- 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 ATS Properties Limited against the decision of Newcastle-upon-Tyne City Council.
- The application Ref 2019/1225/01/DET, dated 3 September 2019, was refused by notice dated 14 November 2019.
- The development proposed is the change of use from garage (class B2) to 3 x 2 bedroom flats (class C3) including alterations to the roof.

Decision

1. The appeal is allowed and planning permission is granted for the change of use from garage (class B2) to 3 x 2 bedroom flats (class C3) including alterations to the roof at 69 Rear of Alwinton Terrace, Gosforth, Newcastle upon Tyne NE3 1UD in accordance with the terms of the application, Ref 2019/1225/01/DET, dated 3 September 2019, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by ATS Properties Limited against Newcastle-upon-Tyne City Council. This application is the subject of a separate Decision.

Preliminary Matters

3. Since the determination of the application by the Council, the saved policies of the Newcastle upon Tyne Unitary Development Plan have been replaced by the Development and Allocations Plan (DAP), adopted 24 June 2020. The Appellant has been provided the opportunity to comment in the course of the appeal process.

4. Amended plans have been submitted with this appeal which show in particular the addition of dormer style windows to the roof structure to serve the upper floor flat. Reference has been made to some discussions with the Council, but I have no substantive evidence to suggest that the Council have made any assessment of these plans or whether the views of interested parties have been sought. The 'Procedural Guide – Planning Appeals – England' advises that if an applicant thinks that amending their proposals will overcome the local planning authority's reasons for refusal, they should normally make a fresh planning application. I therefore attach no weight to these amended plans and have

determined the appeal on the basis of those plans considered by the Council as listed in its decision notice.

Main Issues

5. The effect of the proposed development on:

   i) the living conditions of future occupiers, with particular regards to outside space and outlook; and,

   ii) Highway safety, with regards the entrance to the proposed flats.

Reasons

Living Conditions

6. The appeal scheme would result in the conversion of the currently vacant building to provide three flats. The existing building occupies the whole of the appeal site and as such no outside space is provided and indeed could be provided as part of the proposed development, even if a less dense proposal were to be progressed. Furthermore, I saw at the site visit that green spaces, including a play area, are situated within easy walking distance of the property, providing some, albeit public, outside space for future residents to enjoy.

7. The submitted plans show that the proposed flats would be single aspect, save for a small obscurely glazed bathroom window in the first and second floor flats. In the absence of any defensive space to separate the appeal property from Christon Road the windows of the ground floor flat serving the two bedrooms and living room, look immediately onto Christon Road, directly opposite the main entrance to Gosforth Central Middle School.

8. I note that Christon Road is the only access to the nearby industrial estate and school. However, at the time of the site visit the road was little trafficked and I saw that it benefits from a number of traffic calming measures, unfortunately the school was closed at the time of the visit as a result of the Covid-19 pandemic. The Council describe the road as being a "relatively busy street" used by HGVs and other commercial vehicles and busy "at the beginning and end of the school day".

9. Furthermore, the narrow pavement to the front of the appeal site would discourage groups of pedestrians from using this path in preference to the wider and less interrupted pavement on the opposite side of Christon Road.

10. I have not been provided with any analytical evidence regarding the level of traffic on Christon Road and the Council's description of the level of traffic on the road does not lead me to find that it is of such a high level as to have an unacceptable impact on the living conditions of the future occupiers of the proposed flats.

11. In proportion to the internal space the windows are shown on the submitted plans as being large and the outlook is relatively open and, while typically urban, somewhat verdant as a result of the boundary treatment to the Middle School.

12. Turning to the second floor flat, outlook for future occupiers would be provided from four roof lights only. The submitted plans show that the windows, while

set at an angle, are nonetheless large and at a height that would afford residents a reasonable outlook from the rooms.

13. For the reasons detailed above, I find that, on balance, the proposed development would provide adequate living conditions for future occupiers with particular regards to outside space and outlook. As such, the appeal scheme is not contrary to policies DM20, 23 and 24 of the DAP that seeks that, amongst other matters, to ensure that new development protects living conditions of occupiers of adjacent properties and promotes good design.

Highway safety

14. It is the Council's case that the use of the single entrance directly off a narrow footpath by the three proposed flats would harm highway safety.

15. At the site visit I saw that the pavement is indeed narrow, such that pedestrians would have to step onto the road to pass each other. However, at the time of the site visit, carryout during the afternoon of a typical weekday albeit during the Covid-19 pandemic, the road was quiet and benefits from a number of traffic calming measures in proximity to the appeal site. Furthermore, while the site is situated directly opposite the main entrance to Gosforth Central Middle School, it is only a short distance in either direction before a pedestrian can either cross the road or otherwise use a wider pavement.

16. I have no substantive evidence before me to suggest that the use of the entrance, recessed from the pavement, by the future occupiers of the three proposed flats would be so significant as to create a highway safety issue. Furthermore, I note that in providing detailed comments in respect of the application, the Council's Transport Development team did not raise any issues regarding the narrow pavement.

17. For the reasons detailed above I find that the proposed development, in particular the single entrance way directly off the narrow pavement, would not have a detrimental effect on highway safety. As such the proposed development is not contrary to Policy DM17 of the DAP that seeks to ensure that new development is not harmful to highway safety.

Other Matters and Conditions

18. A number of local residents have objected to the proposed development referring to a range of concerns including car parking. The proposed development does not provide for any parking, save for cycle parking, and I saw at the site visit that on-street car parking in the adjacent residential streets is clearly under some pressure.

19. Nonetheless, the Council's Transport Development team commented that "the site is also located within a highly accessible location with high frequency bus services available on Gosforth High Street and Church Road" and on this basis did not raise any concerns. In addition to bus services, I note that the site is also within easy walking distance of the Regent Centre metro station, further increasing public transport options for future residents. On this basis I find that the absence of car parking in the proposed development to be acceptable and is not in conflict with Policy DM12 of the DAP.

20. The Council has provided a number of suggested conditions, I have considered the conditions in the light of the Planning Practice Guidance (PPG). In addition to the standard condition to limit the lifespan of the planning permission, I have specified the approved plans for the avoidance of doubt and in the interests of proper planning. Furthermore, to protect the living conditions of future occupiers a condition requiring the assessment of contamination risks and appropriate action thereafter.

Conclusion

21. For the reasons given above I conclude that the appeal should be allowed.

Mark Brooker

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:

G/123/00 Existing and Proposed Site Plan

G/123/04 C Proposed Ground Floor

G/123/05 A Proposed First Floor

G/123/06 A Proposed Second Floor

G/123/08 D Proposed Sections X-X Y-Y

G/123/10 K Proposed Elevation to Front Side and Rear

3) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the

remediation works shall be submitted to the local planning authority within 30 days of the report being completed and approved in writing by the local planning authority.

4) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. G/123/04 C Proposed Ground Floor for 3 bicycles to be parked and that space shall thereafter be kept available for the parking of bicycles.

5) No dwelling shall be occupied until space has been laid out within the site in accordance with drawing no. G/123/04 C Proposed Ground Floor for refuse to be stored and that space shall thereafter be kept available for the storage of refuse.

End of Schedule