
Appeal Decision

Site visit made on 21 October 2020

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th November 2020

Appeal Ref: APP/M4510/W/20/3254367

**Key House, Skills for People, Tankerville Place, Newcastle-upon-Tyne
NE2 3AT**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Malhotra against the decision of Newcastle City Council.
 - The application Ref 2019/1452/01/DET, dated 19 June 2019, was refused by notice dated 25 February 2020.
 - The development proposed is the restoration, refurbishment and extension of the existing Skills for People accommodation to create a 22-studio apartment development.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appeal site benefits from a Prior Approval for 15 apartments granted on 2nd February 2018¹. 7 of the apartments would be on the ground floor and another 8 would be on the first floor. That prior approval has not been implemented.
3. In the interests of brevity, the description of development in the banner heading has been shortened. The proposed development would amount to a net addition of 7 studio flats / studios over and above that given prior approval in February 2018.

Main Issues

4. The main issues are:
 - The effect of the development proposal upon the character and the appearance of the host building and the Brandling Village Conservation Area within which it would be located;
 - The effect of the proposed development upon the living conditions of future occupants of the host building, with particular regard to space, light, privacy and outlook;
 - The effect of the proposed development upon the living conditions of neighbouring occupants with particular regard to outlook and disturbance arising from access / egress of the occupants of the host building and the collection of bins; and

¹ See Ref. 17/00500/NRE.

- The need or otherwise for the proposed development to include a s.106 planning obligation with particular regard to parking permits, the provision of affordable housing and contribution towards open space within the area.

Reasons

Character and Appearance

5. The appeal site comprises an L-shaped former office building previously occupied by Skills for People which sits on a large plot located close to where Tankerville Place runs into Otterburn Terrace in Jesmond, Newcastle-upon-Tyne.
6. The site sits within the Brandling Village Conservation Area ('the Conservation Area'). Under s.72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 ('the Act') there is a duty to pay special attention to the desirability of preserving or enhancing the character and appearance of the Conservation Area.
7. The front part of the building has the appearance of an arts-and-craft residential dwelling (11 Tankerville Place). At the rear and attached is a 2-storey office building which runs parallel with the railway line. It has a part flat and part pitched roof running the full length. Between the office building and the side of the adjacent end of terrace dwelling on Tankerville Place is an enclosed triangular shaped courtyard which is accessed from a narrow lane to the rear of the terrace known as Coach House Lane.
8. The railway line which the site backs onto forms the eastern, largely tree-lined boundary to the Conservation Area. The majority of the properties within the immediate locality appear to have been constructed in Victorian times and are generally of red brick and slate.
9. The appeal site is separated from a neighbouring large detached residential building, called Otterburn Villas immediately to the south on Otterburn Terrace, by a short dead-end lane. The dwellings on the other side of Otterburn Terrace and those on Tankerville Place are predominantly 2-storey terraced, with many including dormer windows in the loft. Generally, the area can be described as established and quiet.
10. Although the arts-and-craft style of 11 Tankerville Place is not in the same architectural style as the other properties within the immediate neighbourhood, by virtue of its general attractiveness it nevertheless still makes a positive contribution to the Conservation Area. The southern elevation of the office building to the rear, however, does not make a positive contribution although the negative effect is reduced to some extent by its limited visibility.
11. The development proposal would comprise the creation of a second floor above the 2-storey office building with a slate-tiled pitched roof, the extension of the building to the north to accommodate an emergency stair exit, the extension of the building to the south to form a 2-storey element housing a double garage and part of a studio flat, and the demolition and removal of elements including some partition walls, parts of exterior brickwork, parts of the roof and some windows and doors.

12. These extensions and alterations would allow for the creation of 10 'new' studio flats and studios. One of these would be on the ground floor (Studio Flat No 4), 3 would be on the first floor to the rear overlooking the railway line (Studios Nos: 10, 11 and 12) and 6 would be on the new top floor (Studios and Studio Flats Nos: 17; 18; 19; 20; 21; and 22). The new apartment on the first floor located mainly above the garage (Studio No 12) and the 6 new apartments on the second floor (Studios / Studio Flats Nos 17-22) would comprise 5 x 1-bedroom studios and 2 x 2-bedroom studio flats. As a result, when combined with the existing development approved in 2018, the scheme would provide for 22 units of accommodation.
13. The addition of the second floor would result in the ridge of the new roof being about 40cm higher than the ridgeline of 11 Tankerville Place. The pitched roof of the new floor would result in the loss of the flat roof section. It would be hipped at the southern end and would be separated from 11 Tankerville Place by around 5 metres ensuring that the arts-and-craft style building would continue to read as a separate entity when viewed from the front. The new roof would be most visible from Lily Crescent which runs parallel with the rear elevation just beyond the railway line. To all intents and purposes, the new roof would not be noticeable from Tankerville Place and there would only be limited visibility from Otterburn Terrace.
14. Three new dark grey wide clad-framed dormer windows and a clad-framed entrance running the full height of the building would project out from the southern elevation of the building towards the short dead-end lane. The new 2-storey extension containing the double garage and part of one of the new studio flats would also include the same thick-framed windows and would face in the direction of Tankerville Place from the bottom of the short dead-end lane.
15. These new additions would be very evident to those travelling along Tankerville Place. The extension would also block attractive views across the tree-lined railway line and out of the Conservation Area, and vice versa. Similarly, the extension on the northern side of the building accommodating the emergency exit staircase would also block views from Coach House Lane across the tree-lined railway line and out of the Conservation Area.
16. However, these extensions and alterations should be viewed in the context of the rather unattractive pre-existing office block. Significantly, the proposed replacement of the flat roof section above the southern and eastern elevations with a pitched roof would be more in keeping with the surrounding area and so would provide a benefit. When considered as a whole, the development proposal would produce an improvement over the existing building and so enhance the Conservation Area.
17. For the above reason the proposed development would not harm the character of the Conservation Area, or the character and appearance of the host building. Consequently, it would accord with Policy CS15 of Planning for the Future: Core strategy and Urban Core Plan for Gateshead and Newcastle-upon-Tyne 2015 (CS) which seeks to encourage positive contributions to good place-making through high quality, sustainable design.
18. Furthermore, since it would not harm the appearance of neighbouring buildings it would accord with Saved Policy H2(A) of the Newcastle-upon-Tyne Unitary

Development Plan 1998 (UDP) which seeks to ensure that new development, including extensions, protects the character of the locality.

Living Conditions of Future Occupants of Host Building

19. Most of the privately rented, furnished units within the proposed development would be in the form of studio flats. Discounting the small amount of space allocated for internal cupboards, these would range in size from 24 square metres to 36 square metres. The National Described Space Standards (NDSS) recommends that a studio flat for one-person accommodation should be a minimum size of 37 square metres (or 39 square metres if it includes a bath rather than a shower).
20. An amendment to the NDSS dated May 2016 stipulates that the advisory standards do not apply to 1-bedroom furnished flats intended for occupancy by a single person. The application does not detail the number of intended occupants for each studio, but the plans show double beds. As they could be occupied by 2-people the advisory standards would continue to apply.
21. Thus, all the proposed studios fall short of the recommended size and some by quite a considerable margin. For example, Studios Nos 4, 11 and 17 are, respectively, only 25, 26 and 24 square metres in size. However, even if the advice contained within the NDSS were held not to apply a judgement still has to be made in regard to the living conditions. Because of their limited size Studios Nos 4, 11, 17, 18 and 19 would be extremely cramped and so fall considerably below the standard of accommodation that could be reasonably expected for occupancy by one or two people. They would, therefore, fail to provide satisfactory living conditions for the future occupants.
22. The access to the proposed development would be taken through the main entrance just off the dead-end lane. This would lead to an entrance hall and then to the first and second floors via an elevator and a staircase. Emergency exit staircases from the first and second floor would be provided at the northern end of the building and towards the front of the building.
23. The window of Studio No 4 of the ground-floor is immediately adjacent to the short dead-end lane and looks towards the adjacent large property. Because the studio has no defensible space and because there is so little vehicular traffic along the lane those passing in front and occupants of Otterburn Villas would have a largely uninterrupted view of it.
24. It is possible that those passing would be able to see into the Studio, but this would be fleeting. The side elevation of Otterburn Villas has very few windows and it is not clear whether any are directly opposite. Furthermore, the level of separation between Studio No 4 and the nearest side elevation of Otterburn Villas is around 10-12 metres.
25. Whilst this is below the minimum separation distances between habitable rooms commonly used by other Local Planning Authorities in more confined urban areas a degree of pragmatism and flexibility is required. This is consistent with the approach taken in an appeal at Norris House, Crawhall Road, Newcastle-upon-Tyne NE1 2BB to which I was referred². Whilst that appeal concerned a development within the city's urban core the urban fabric of Jesmond is similarly compact supporting a call for the same approach to be

² See Ref. APP/M4510/W/16/3166008

applied. Thus, for the reasons set out above, there would be no significant loss of privacy for the occupants of Studio No 4.

26. The window of Studio No 19 on the second floor would face onto the blank gable wall of the end of terrace dwelling about 6 metres away. The windows of Studios Flats Nos 18 and 17 would be progressively further away but still close. However, the windows would afford views over the roof to the sky and so the loss of outlook would be limited and thus acceptable.
27. All the habitable rooms would benefit from some source of natural light and would have some form of outlook. The Average Daylight Factor (ADF) for each of the rooms on the ground, first and second floors is provided in Appendix 3 (Proposed Scheme Average Daylight Factor) of the Appellant's statement. The ADF for each is to be compared against the guidance threshold set by the Building Research Establishment (BRE).
28. The results show that most of the rooms meet the advised minimum standard for bedrooms (1%) but that several would fail to attain the advised standard for kitchens (2%). Within the context of multi-purpose rooms there is scope for disagreement as to which function should determine the appropriate ADF measure. In the absence of the details of any other schemes where the Council might have taken a different approach, the need for a high level of natural light for the proposed apartments is important. Accordingly, it is reasonable to regard the higher figure for the kitchen as being the relevant metric for the entire room. On this basis, many of the studios would fail to provide for a satisfactory level of daylight and sunlight.
29. For the above reasons the proposed development would fail to provide for the satisfactory living conditions of future occupants. Consequently, it would fail to accord with Policy H2(C) of the UDP which seeks to ensure that new development provides for a satisfactory level of daylight and sunlight. Furthermore, it would fail to accord with Paragraph 127f) of the Framework which also advises that new development should provide a high level of living conditions.

Living Conditions of Occupants of Neighbouring Dwellings

30. Occupants of those rooms in Otterburn Villas that would face the proposed building would experience a reduced level of outlook as a result of the introduction of a new second floor. However, this loss would be mitigated by the angle of the pitched roof and the intervening distance which varies between around 10-16 metres. Again, mindful of the need to adopt a slightly more pragmatic and flexible approach in urban areas, any loss of outlook for occupants of Otterburn Villas would be very limited and not significantly harmful.
31. The proposed extension on the northern end of the building to accommodate a new emergency stairway exit would be very close to The Coach House, 8 Henshelwood Terrace ('The Coach House') at the end of Coach House Lane. This dwelling has a contemporary glazed sunroom extension with an outlook to the east, south and west. Although there would be no habitable rooms overlooking the sunroom the emergency stairway exit would tower above it, resulting in an oppressive effect. This would significantly harm the living conditions of the current and future occupants of The Coach House.

32. Access to the proposed building would be via either the main entrance just off the dead-end lane or through the ramped secondary entrance within the enclosed courtyard. Access to the courtyard could be taken from Coach House Lane running to the rear of Tankerville Place. With 22 studio flats and studios the development might realistically accommodate a compliment of around 30-40 residents. Movements in and out of the building would be likely to be staggered given the increasingly varied pattern of people's study and work patterns with occupants dispersing in 3 directions. Consequently, the comings and goings of the future occupants would not harm the living conditions of neighbouring residents.
33. Refuse bins would be stored on the ground floor on the northern side of the building. It is likely that the refuse would be collected from Coach House Lane. This would intensify the usage of this lane although not to a point that would seriously harm the living conditions of the neighbouring occupants. The deliveries of occasional large domestic items such as furniture would be via the most convenient of the two entrances and again, it is unlikely that this would result in any significant harm to the living conditions of neighbours.
34. For the reasons set out above the proposed development would harm the living conditions of the occupants of a neighbouring dwelling on Coach House Lane. It would therefore fail to accord with Policy H2(C) of the UDP which seeks to ensure that new development provides for a satisfactory level of outlook for its occupants. Furthermore, it would fail to accord with Paragraph 127f) of the Framework which also advises that new development should provide a high level of living conditions.

Planning Obligation

35. The Appellant has submitted a completed s.106 Agreement signed by both parties, dated 14th September 2020, undertaking to amend the Street Legal Order to limit the number of parking permits available to occupants to 13, and to contribute the sums of £6,828 and £15,250 respectively towards the upgrading of local outdoor space in Ouseburn and the provision of off-site affordable housing elsewhere in the city. Furthermore, the Appellant also agrees to meet the costs of monitoring compliance with these undertakings.
36. Accordingly, the proposal would not generate unacceptable parking problems within the neighbourhood, would contribute to the upgrading of local outdoor space and would help fund the provision of affordable housing within the city. Moreover, the Appellant would fund the monitoring of the agreement to ensure that it would be properly implemented. Consequently, the development proposal would accord with Policy DEL1 of the CS and with the SPD which identifies these issues as falling within the scope of obligations likely to be sought by the Council.

Other Matters

37. The proposed development would not be detrimental to highway safety, nor would it be a source of any noise or air quality problems. It would be acceptable in terms of ground contamination and would not be subject to, or create, any flood risks. Since these are neutral matters, however, they do not affect the planning balance. Its location would mean that the occupants would have access to a high standard of local facilities and public transport which are considerations that support the proposal.

Planning Balance and Conclusion

38. The proposed development would enhance the character of the Conservation Area and would not harm the character and appearance of the host building. It would provide its occupants with a high quality of local services. Furthermore, by virtue of the completed s.106 Agreement the proposal would help to protect the provision of on-street parking and secure upgraded outdoor space for neighbouring residents. It would also help towards meeting the need for affordable housing elsewhere in the city. These are matters that I accord a moderate amount of weight to.
39. However, the proposed development would seriously harm the living conditions of future occupants by virtue of, inter alia, the unduly restricted size of some of the studios and the inadequate levels of sunlight and daylight in many rooms.
40. Additionally, it would also harm the level of outlook of the occupants of the Coach House. These harms would jointly and severally constitute fundamental conflicts with the Development Plan. These harms clearly outweigh my findings as regards the Conservation Area, character, appearance, local parking, the upgrading of outdoor space, the contribution to affordable housing provision and the access to local services.
41. For these reasons the appeal should be dismissed.

William Walton

INSPECTOR