



Appeal Decision

Site visit made on 18 January 2022

by C Dillon BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th February 2022

Appeal Ref: APP/M4510/W/21/3286220

2 Dukes Cottages, High Row, Lemington, Newcastle upon Tyne NE15 8SH

- 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 Hossein Mokhtary against the decision of Newcastle Upon Tyne City Council.
 - The application Ref 2021/0037/01/DET, dated 9 January 2021, was refused by notice dated 28 May 2021.
 - The development proposed is the demolition of a residential property and change of use of land from residential to commercial (car lot– sui generis), including the erection of a single storey storage and WC buildings and erection of palisade fence and gate to frontage.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. There are discrepancies between the address cited on the submitted planning application and appeal forms, decision notice and plans. The submitted documents confirm to me that these all refer to the same site. For the purposes of my decision, I have relied on the address cited in the heading above, being the most recent relied upon by the appellant.
3. Furthermore, I have relied on the description of development which is specified on both the Council's decision notice and the appeal form as that is a more accurate summary of the appeal proposals before me.
4. A building resembling that forming part of the planning application was evident on site. However, my decision relates to the building shown on the submitted plans as that is what was proposed through the planning application.

Main Issues

5. The main issues are the effect of the appeal proposal on:
 - the character and appearance of the area
 - the living conditions of the occupants of the neighbouring dwelling
 - highway safety, with particular regard to parking and vehicular movements.

Reasons

Character and appearance

6. The appeal site forms part of an elevated, prominent residential frontage just off the A6085, a main route through Lemington. This part of the settlement also accommodates a number of retail, industrial and other business premises. The appeal site is bound by a commercial garage and car wash to one side and a dwelling known as No 1 Dukes Cottages to the other. The pair of semi-detached dwellings of which the appeal property forms part, are read against a backdrop of the residential parts of this settlement. Overall, the blend of uses here means that the area has an urban appearance. Although situated somewhat unexpectedly between existing commercial uses, these 2 existing dwellings contribute positively to the mixed character and appearance of this street scene. This, coupled with the business activity, associated visitor movements and background noise serves to define the area's character.
7. The proposed demolition works would leave a single detached dwelling between commercial uses. In visual terms, the proposed outcome would continue to reflect the random positioning of dwellings within this particular street scene. The proposed loss of No 2 would not cause an unacceptable visual imbalance. Details of the proposed demolition and treatment of the exposed gable end are not before me. Nonetheless, this pair of semi-detached dwellings are relatively simple in their external design. The submitted evidence does not demonstrate that their separation could not be physically achieved. Furthermore, the demolition programme and remediation of the exposed gable end could be managed through a planning condition to safeguard the character and appearance of the area.
8. The scale and flat roofed form of the resulting building and the industrial style fence and gates would not be discordant with its existing commercial context. The site would continue to be screened from vantage points along the recreational route to the rear by existing planting and boundary walling. The finish of the external walls of that building and galvanised section of the front boundary enclosure could be controlled by a planning condition to ensure that their external appearance would not be overly stark in the street scene. Opportunities for landscaping within the site to soften its appearance could also be secured through a planning condition. These measures would avoid conflict with Policy CS15 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030 ("the CSUCP") and also Policy DM20 of the Newcastle upon Tyne Development and Allocations Plan 2015-2030 ("the DAP") in these regards. Appropriate refuse storage within the site could be secured by a planning condition to avoid conflict with Policies DM20 and DM34 of the DAP.
9. The type and pattern of noise that would arise would not be out of character with that of the nearby commercial land uses. However, it remains that the appeal proposal would significantly reduce the already limited domestic character and appearance of this particular part of the settlement. The occupants of adjoining No 1 are currently exposed to both the audible and visual effects of the existing nearby commercial activity which forms part of the character and appearance of the area. The very close proximity of the appeal proposal to that dwelling means that the limited residential character and appearance those occupants rely upon for relief from those commercial uses would be substantially reduced. This would unduly disturb the current balance

between the residential and commercial characteristics of the area for those occupants.

10. For these reasons, the appeal proposal would not jar with the commercial character and appearance of this mixed use area. However, the appeal proposal would substantially diminish the appeal site's highly localised domestic character and appearance to an extent that would cause significant harm to the adjoining residential receptor.
11. Policy CS1 of the CSUCP requires that all development enhances the area's character and Policy CS15 of that plan requires development to respond positively to local character. Policy DM20 of the DAP requires that opportunities to improve the character and quality of the area are taken. In view of the harm that I have identified, the appeal proposal conflicts with all of these policies.

Living conditions

12. Currently, the living conditions of occupants of Nos 1 and 2 are somewhat limited by the character and appearance of the surrounding commercial uses. Therefore, the mutual relief they provide to one another from the surrounding commercial context is paramount to maintaining adequate living conditions conducive to domestic occupancy. The nature and level of the very localised visual and audible changes which would arise from the appeal proposal are crucial to determining the future living conditions of occupants of No 1.
13. From a visual perspective, I have already determined that the stark appearance of the proposal could be satisfactorily addressed through planning conditions. Furthermore, the domestic scale and form of the appeal building, and its positioning would have an adequate relationship with No 1 in terms of sunlight, daylight and outlook. There would be no conflict with Policy DM23 of the DAP in these regards.
14. Nonetheless, by the appeal proposal's very nature and scale, the occupants of No 1 would be subjected to a significant intensification of visitors to the site both on foot and by motor vehicle. Neither main party has provided any evidence that quantifies these effects. However, this would generate noise and disturbance in terms of vehicles entering, manoeuvring within and exiting the site. Further noise and disturbance would occur from the closing of car doors, voices of customers and staff and also car headlights. Crucially, these would occur to both the front and rear of No 1, within very close proximity to the habitable room windows and existing outdoor space.
15. By virtue of the character of the resulting noise and disturbance, its proximity and likely pattern and duration, there is no doubt that its effects would be over and above that arising from the surrounding commercial context and to a degree that would be significantly adverse for those occupants. The positioning of the store and WC building and improvements to the existing boundary treatment would not give sufficient relief to these occurrences. This is because of the positioning of the access, the scale and positioning of the internal car parking arrangements and the raised site levels to the rear relative to No 1. Consequently, the appeal proposal would cause unacceptable levels of noise and disturbance for occupants of No 1. For the same reasons, the appeal proposal would diminish existing privacy levels for those occupants to an unacceptable level.

16. I therefore conclude that the appeal proposal would cause significant harm to the living conditions of the occupants of No 1.
17. Policy CS14 of the CSUCP seeks to prevent negative impacts on residential amenity from noise. Policy DM23 of the DAP requires development to provide a good standard of residential amenity in terms of privacy and clearly resists the introduction of unacceptable traffic and parking which would result in an increase of visual intrusion, noise or disturbance. Policy DM24 of the DAP requires that no unacceptable adverse environmental and health impacts, including cumulative impacts from the development are demonstrated. Noise and light pollution amongst other things must be mitigated. Given the identified harm to the living conditions of occupants of No 1, there is conflict with all of those policies.

Highways

18. The appeal site is accessed directly off High Row, which with the exception of the frontage of Nos 1 and 2 is subject to parking restrictions. The width of this road is not capable of allowing 2 vehicles to pass without traversing the adjoining footway. The appeal proposal would rely heavily upon vehicular movements generated by staff, customers and servicing requirements. These movements would be significantly greater than those generated by the existing residential use and would substantially increase the traffic movements along High Row.
19. Crucially, the submitted internal layout of this relatively narrow but elongated site does not demonstrate that the overall number of vehicles to be both displayed for sale and visiting the appeal site could be satisfactorily accommodated within its confines in terms of parking and turning space. Therefore, I am unconvinced that all vehicles could enter and leave the site in a forward gear onto this narrow road and that an overspill of parked vehicles onto the surrounding local highway network in the vicinity of the appeal site would not result.
20. For these reasons, the appeal proposal would be harmful to highway safety, with particular regard to parking and vehicular movements.
21. Policy DM12 of the DAP sets out the requirements for safe, secure and usable parking and servicing provision for new developments. Furthermore, Policy DM14 of the DAP requires that the appeal proposal adequately mitigates against its impact on the highway network in the interests of safety, efficiency and accessibility. Given the identified harm in this regard, there is conflict with all of these policies.

Other Matters

22. Policy CS9 of the CSUCP does not give support to the proposed demolition as it seeks to prevent the loss of family homes through redevelopment unless it relates to housing which is no longer viable or in demand. The appeal scheme is supported by a structural survey. Although this confirms the appeal dwelling has some structural deficiencies, it does not indicate that demolition is the only available option. Neither has any evidence on a lack of demand for residential occupancy been submitted. Consequently, each of these considerations attract limited weight in favour of the appeal proposal.

23. A condition requiring the submission and implementation of appropriate drainage details could be attached to avoid conflict with Policy CS17 of the CSUCP and Policy DM26 of the DAP. This is of neutral consequence to my determination.
24. The appellant has outlined his contribution to the regeneration of the area and states that he has been treated unfairly. My examination is confined to the planning considerations relating to this specific appeal proposal only and so this argument is also of neutral consequence to my determination. Furthermore, whether or not additional land has been incorporated into the appeal is not material to the harm that I have found.

Conclusion

25. I have found harm to the character and appearance of the area, the living conditions of occupants of the adjoining dwelling and also highway safety. As a consequence, the appeal proposal conflicts with the development plan taken as a whole. There are no material considerations before me which outweigh this conflict. I therefore conclude that the appeal should be dismissed.

C Dillon

INSPECTOR