



Appeal Decision

Site visit made on 14 April 2022

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2022

Appeal Ref: APP/J4525/W/22/3292460

Clinton Stores, Clinton Place, East Herrington, Sunderland SR3 3SL

- 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 Clinton Stores against the decision of Sunderland City Council.
- The application Ref 21/02813/SUB, dated 5 December 2021, was refused by notice dated 7 February 2022.
- The development proposed is described as erection of a single-storey side extension with balustrade to roof area to create a roof terrace (to allow for enlarged roof terrace area within balustrade area - free go resubmission of approved application 21/01719/FUL).

Decision

1. The appeal is dismissed.

Background

2. The appeal property benefits from an extant planning consent¹ for a single storey extension and roof terrace. The single storey extension in the extant consent is the same size as that in the appeal proposal. The roof terrace is smaller in the extant consent, broadly sitting in the middle of the roof of the extension. It is clear in the evidence that there is no objection from the Council to the proposed single storey extension. I have therefore confined my consideration of the appeal to the proposed roof terrace.

Main Issue

3. The main issue is therefore the effect of the proposed roof terrace on the living conditions of occupants of surrounding residential properties with regard to noise and disturbance.

Reasons

4. The appeal property is a two-storey detached retail store with residential accommodation above. It is located on a prominent corner junction with Silksworth Road, Woodside Grove and Clinton Place. It is located in a predominately residential area, with residential properties directly opposite and to the side and rear of the unit. The main shop frontage overlooks a small area of open space. The Silksworth Road elevation is bounded by a wall with infill fence panels that encloses an area of amenity space that serves the residential flat above the retail unit. It is to this elevation that the extension and roof terrace above is proposed.

¹ 21/01719/FUL

5. The section of Silksworth Road adjacent to the appeal property is a single carriageway. During my mid-morning weekday site visit I observed that there were moderate levels of traffic on the road and that the road also serves as a bus route. Although the road was the dominant noise source in the area, it was not generating particularly high levels of noise and it was not a particularly noisy environment, especially when there were occasional breaks in traffic. I would anticipate that the noise level is likely to be significantly less during the evening and at night when traffic levels are typically lower.
6. The proposed roof terrace area would be broadly the same size in area as the existing amenity space. I acknowledge that the use of the roof terrace would be similar to the currently unrestricted use of the amenity space, however this is contained within the existing boundary treatment that also acts as a buffer to any noise breakout. The use of the proposed roof terrace, that would be largely open and in an elevated position, would subject nearby residential properties to highly noticeable and greater noise levels than existing.
7. Although the Council have not raised an objection in terms of privacy, this was something referred to by interested parties. The roof terrace would be some distance from properties opposite, however these properties would nevertheless find the terrace quite imposing and obtrusive when in use due to its open nature and elevated position, exacerbated by its overall size. If not causing harm to privacy, it would cause perceived overlooking and disturbance in that regard.
8. I acknowledge that there is an extant consent for a roof terrace, however this is considerably smaller and set in from all sides of the roof. I do not consider that it would have the same impact as the proposed roof terrace and therefore give it limited weight.
9. The appellant has suggested conditions to restrict the use of the terrace to certain hours and restrict the playing of music. Although this would remove the harm at the specified times, they would not, however, overcome the harm I have identified as a whole.
10. The appellant suggests that the use of the terrace would not be for any considerable length of time, partly due to weather conditions, and that it would rarely be used for noise generating activities. There is nothing before me however to ensure that this would be the case.
11. I therefore conclude that the proposed development would cause significant harm to the living conditions of occupants of surrounding residential properties with regard to noise and disturbance. It would be contrary to Policy BH1 of the Sunderland Core Strategy and Development Plan (2020) which requires, amongst other things, that developments should ensure a good standard of amenity for all existing and future occupiers of land and buildings.
12. The proposed development would also be contrary to the Sunderland Development Management Supplementary Planning Document (SPD) (2021) which outlines that such proposals will only be considered acceptable if their use will not result in neighbouring properties experiencing unacceptable levels of additional noise and disturbance.

Other Matters

13. The appellant has referred to the provision the proposal would make in terms of private amenity space. Such a benefit weighs in favour of the proposed development, however I do not consider that it outweighs the harm that would be caused.
14. The appellant has referred to statutory or other nuisance controls to deal with potential noise complaints. Whilst this may be the case, the development plan and the Framework clearly exemplify the significance of considering noise in planning decisions.
15. The appellant has referred to the fact that they would not wish to displease or cause nuisance for their neighbours. I do not doubt the appellant's genuine consideration for their neighbours; however, residents can change over time, and one person's perception of nuisance can be different from another.
16. The appellant has also referred to the possible installation of a higher fence. I have, however, considered the appeal on the basis of the development before me.
17. I note that support was received to the proposed roof terrace. Reference to the design of the installation is not a matter in dispute. The absence of harm, in design terms, is a neutral factor in the balance.

Conclusion

18. The proposed development would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.
19. For the reasons set out above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A M Nilsson

INSPECTOR