



Appeal Decision

Site visit made on 17 May 2022

by Mr M Brooker DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 June 2022

Appeal Ref: APP/N1350/W/22/3290187

12 Vane Terrace, Darlington DL3 7AT

- 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 Paul Million against the decision of Darlington Borough Council.
 - The application Ref 21/01217/FUL, dated 4 October 2021, was refused by notice dated 16 December 2021.
 - The development proposed is described as the change of use from dwelling house (Class C3) to 8 person HMO (sui-generis).
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Decision

1. The appeal is allowed and planning permission is granted for Change of use from dwellinghouse (Class C3) to 8 person HMO (sui-generis) at 12 Vane Terrace, Darlington DL3 7AT in accordance with the terms of the application, Ref 21/01217/FUL, dated 4 October 2021, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. At the site visit I saw that various buildings works had commenced at the property. The appellant states that these works are "to convert the building to a 6 person House in Multiple Occupancy" (HMO) under permitted development rights. I have determined the appeal on this basis and on the basis of the evidence before me.
3. The Darlington Local Plan (DLP) was adopted on 17 February 2022, replacing the 'saved' policies of the Borough of Darlington Local Plan 1997 (updated 2001) and the Darlington Core Strategy (2011). Consequently, the DLP is part of the development plan to be considered in the determination of this appeal.

Costs

4. The appellant has submitted an application for an award of costs from the Council. This application is subject of a separate decision.

Main Issue

5. The main issue is the effect of the proposed development on the living conditions of the occupiers of neighbouring properties.

Reasons

6. Policies H8 and DC4 of the DLP are relevant to the proposals and amongst other matters the policies seek to resist the loss of smaller family housing and

to protect the living conditions of the occupiers of properties next to new development.

7. An additional requirement of policy H8 of the DLP over and above the provisions of the superseded policy H18 is that that "the subdivision of existing properties of less than 4 bedrooms will not be permitted". The application form clearly states that the dwelling accommodates 4 or more bedrooms and while the plans submitted by the appellant showing the existing layout of the property are not labelled, this does appear feasible. As such the appeal scheme is not contrary to this specific provision of Policy H8 of the DLP.
8. With regards the effect of the appeal scheme on the living conditions of the occupiers of neighbouring properties, the Officer's report refers to two specific matters, an increase in activity at the site including comings and goings, and on-street car parking.
9. The officer's report does not dispute the potential to convert the appeal property into a 6 person HMO using permitted development rights and on the basis of the evidence before I find no substantive reason to conclude otherwise. Thus, the conversion of the property to a 6 person HMO forms a valid fall-back position for the appellant and I saw at the site visit that works in this regard had already commenced. This is a material consideration to which I afford great weight to.
10. The appeal scheme would increase the occupancy of the appeal property by two additional persons to the fall-back position. Consequently, it is clear that the appeal scheme would result in a more intensive occupation of the property.
11. However, there is little substantive evidence before me to suggest that two additional persons, specifically a 8 person house as opposed to a 6 person house, would result in material harm to the living conditions of occupiers of the neighbouring properties or the existing occupiers of the appeal property, with particular regards to noise and disturbance.
12. The appeal scheme would increase the occupancy of the appeal property and therefore potentially car use and demand for car parking. I saw at the site visit, undertaken during the afternoon of a typical weekday, that on street carparking was clearly in demand in the area, with many streets being subject to parking controls.
13. The appeal scheme includes the creation of on site car parking to the satisfaction of the Council's Highways Engineer, the provision of which can be controlled by condition. Furthermore, I have no substantive evidence to show that there is no capacity to absorb the very limited potential increase in demand for on-street car parking resulting from the proposed development.
14. I accept that one consequence of additional demand for on-street car parking is that existing and future residents of the area would to some extent be inconvenienced by an increased competition for the available spaces. This would manifest itself in terms of taking longer to find a parking space, or residents having to park further away from their homes. Whilst I acknowledge that this would be an inconvenience to local residents, I do not find that this would amount to an unacceptable impact on their living conditions.

15. Consequently, I find that while the proposed development could potentially lead to a very limited increase in demand for on street car parking, this would not have an unacceptable impact on the living conditions of local residents.
16. It is not at dispute between the parties that the appeal scheme makes appropriate provision for servicing, objectors have nonetheless raised concerns, particular regarding bin storage. I note that the submitted plans show bin storage areas within the site, in addition to garden space, cycle and car parking. I am therefore satisfied that the appeal scheme makes appropriate provision for servicing.
17. To conclude this main issue, I find that on the basis of the evidence before me the appeal scheme would not harm the living conditions of the occupiers of the appeal property and neighbouring properties, with particular regards to noise and disturbance and is not therefore contrary to Policy H8 and DC4 of the DLP.

Other Matters

18. The issue of crime and antisocial behaviour has been raised by a number of local residents. I have no substantive evidence before to show that the appeal scheme would result in an increase in antisocial behaviour or crime. While I do not doubt that the concerns raised by residents are genuine, without a reasonable evidential basis for this concern, I afford this material consideration only some weight. It is my planning judgement that the dismissal of the appeal on this basis is not justified.
19. The application is described as a change of use but also involves some external alterations. Furthermore, the appeal property is situated within a Conservation Area (CA). Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a CA.
20. The CA derives significance as a heritage asset partly from the architectural and historic quality of some of the buildings in the area. Of particular importance are the period properties preserved in the streetscapes. Whilst I noted the presence of some less sympathetic buildings in the area, the appeal site and similar such properties, contribute positively to the character and appearance of the Conservation Area.
21. The removal of the windows and doors is identified on the 'existing' drawings, but no specific detail of the replacement door and windows are provided. The proposed drawings appear to show largely identical doors and windows to the existing. The officer's report details that the use of timber in the replacements would be appropriate. However, I have no evidence before me that an Article 4 Direction is in force regarding the Conservation Area and I note that the Council has not proposed such a condition in the Statement of Case. As such it is my planning judgement that a condition controlling the detail of replacement windows would not be reasonable.
22. Alterations are also proposed to the rear garden area to create the car parking spaces, cycle and bin storage areas. At the site visit I saw that the rear gardens of the appeal and neighbouring properties have been subject to earlier alterations, and it is my planning judgment that, subject to appropriate conditions, the appeal scheme represents an improvement that will preserve and enhance the character and the appearance of the Conservation Area.

Conditions

23. With regards conditions, I have considered Paragraph 55 of the Framework and the Planning Practice Guidance. A commencement condition and a condition requiring that the development is carried out in accordance with the approved plans are necessary in the interest of certainty. A condition regarding the provision of car parking, cycle storage and refuse storage is necessary in the interests of highway safety and the living conditions of the occupiers of neighbouring properties.

Conclusion

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

Mr M 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:
PROPOSED SITE PLAN-P006; PROPOSED SOUTH ELEVATION-P401, PROPOSED SECOND FLOOR PLAN-P202 revision A, PROPOSED GROUND FLOOR PLAN-P200, PROPOSED FIRST FLOOR PLAN-P201, PROPOSED EAST & WEST ELEVATIONS-P400, LOCATION PLAN-P001.
- 3) The car parking, cycle storage and refuse storage arrangements, as shown on PROPOSED SITE PLAN-P006 shall be completed prior to any part of the accommodation hereby permitted being occupied and retained as such thereafter.

End of Schedule