



Appeal Decision

Site visit made on 16 January 2023

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2023

Appeal Ref: APP/J4525/W/22/3310883

15 Waterloo Place, Sunderland SR1 3HT

- 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 Jipeng Shang against the decision of Sunderland City Council.
 - The application Ref 22/01619/SUB, dated 19 July 2022, was refused by notice dated 17 October 2022.
 - The development proposed is the change of use of vacant upper floors to a single 6-bedroom flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council has confirmed that the third refusal reason should have referred to policy BH1 of the Sunderland Core Strategy and Development Plan (CSDP) and not the Unitary Development Plan. Whilst this differs from the policy referred to in the decision notice, I am satisfied that no parties would be prejudiced as a result of me proceeding on this basis for the reasons outlined within the main body of this decision.
3. The description of development in the heading above has been taken from the planning application form. In Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original planning application form.
4. I was able to view the inside and upper floors of the building. Whilst some internal alterations had taken place, I cannot be sure they were the same as those on the submitted drawings. Accordingly, I have based my assessment on those plans before me.

Main Issues

5. The main issues are:
 - whether the proposal would provide suitable living conditions for future occupiers;
 - whether the proposal provides adequate refuse storage, with particular regard to the effect on pedestrian and highway safety; and

- the effect of the proposed development upon the character and appearance of the host building and the area.

Reasons

Living conditions

6. The appeal building is a part 2 and 3-storey corner end terrace. It has a vacant retail use at ground floor and is within the primary shopping area in Sunderland city centre. It is located on the corner of Waterloo Place and the pedestrianised Blandford Street. It has ground floor retail windows facing these streets, and metal roller shutters. The rear elevation also has a retail frontage and faces onto a one-way service road at the rear.
7. The Council's case is that the development constitutes a House in Multiple Occupation (HMO) and could be used by 12 people. The Council contends that the communal kitchen/living room, would be inadequate for between 6-12 people and their living conditions. The appellant does not contest the number of people who could be accommodated nor that it will be an HMO.
8. Whilst the plans do not show any seating, furnishing or dining arrangements within the bedrooms, the appellant contends that they would meet or exceed the nationally described space standard. In addition, it is argued that the generous accommodation, ceiling heights, windows and private bathroom facilities, should result in flexible consideration of the accommodation in the accessible city centre location.
9. Whilst I have not been provided with a full analysis of the proposal against any technical housing standards or HMO standards, overall, the communal kitchen area appears to be small and constrained by a narrow shape. Given the position of the sink it would make circulation of multiple users within the kitchen workspace area difficult. This would then likely extend kitchen activity out into the communal living area.
10. The communal living area is illustrated by drawings showing seating for 3 people only, although this is indicative, it does also not appear suitable to accommodate more than a small number of occupants. This arrangement would lead to a cramped and awkward living environment. Notwithstanding the room sizes or features of the bedroom accommodation, the proposed communal accommodation is small, awkwardly shaped and therefore inadequate for the potential capacity of the development.
11. Turning to bedroom 2, this would be served by a wide internal window. This would face out on to a corridor and would not provide the occupant with a positive outlook, nor one of the outside. Although I have no firm evidence of the extent of natural light within the proposed room, given that the window faces an internal corridor, it is likely that occupants would have poor levels of natural light. The occupant of bedroom-2 would be faced with an oppressive environment to reside in, which would not be satisfactory, even if ventilation were acceptable.
12. It is not clear if the Council's concerns in relation to outlook and light relate to all bedrooms as well as bedroom 2. Buildings opposite on Waterloo Place and Blandford Street appear to be a similar height or lower than the appeal building and not imposing. Although the Council explains bedroom 4 is 6m away from buildings it would however have a reasonable outlook being sited opposite a

corner building adjacent to the open pedestrianised Blandford Street. The communal living area window also has multiple panes and for the same reason as bedroom-4 it is not unacceptably enclosed. There would be a reasonable outlook and level of natural light for the remaining bedrooms and living room. It is also noted there would be no overlooking, and most bedrooms are adequately served by windows.

13. Notwithstanding the support for such accommodation within Policy SP2 of the Sunderland Core Strategy and Development Plan (CSDP), Policy H6 of the CSDP also requires HMO accommodation to provide a good standard of living space and amenity for occupiers. As such even if HMO bedrooms meet the minimum size requirements, the policy requirement is for development to provide a good standard of living space and amenity. However, the size of the communal space and poor outlook and lack of natural light for the future occupier of bedroom 2 given would not provide suitable living accommodation for future occupiers.
14. Consequently, the proposal would be contrary to BH1 and H6 of the CSDP. Combined, and insofar as these policies and guidance are relevant to the proposal, they seek to ensure a good standard of living space and amenity for future occupiers including those within HMO's.
15. For the same reasons, the proposal would also be in conflict with the Homes in Multiple Occupation Supplementary Planning Document December 2020 (HMO SPD).

Refuse storage

16. Refuse bins would be able to be stored at the rear of the building, within a dedicated storage area recessed below the first floor. The refuse storage area would face a one-way access road, with single yellow line parking restrictions. This access road serves the rear of commercial premises and had a narrow footway. The plans show the storage area would be secured by a roller shutter, set back from the road by a small narrow footway and capable of storing four 240-litre bins.
17. This refuse area would prevent bins being kept on the highway other than when collection is required. Whilst I appreciate my site visit was only a snapshot in time, this road was quiet and accessed from pedestrianised areas. As such it is not clear how extensively used the access road would be by vehicles or pedestrians. Nor do I have any substantive evidence that the siting of refuse bins on the highway has raised any highway or pedestrian safety concerns for the Local Highway Authority.
18. I have no substantive evidence before me to explain why the refuse requirement, which the Council has referred to in the officer report cannot be achieved. It has not been demonstrated that this could not be split between the commercial and residential use. The above, including the return of bins after collection, and not being stored outside the side entrance or shop windows, could be secured by a management plan which could be conditioned.
19. I therefore conclude that the proposal would include adequate provision for the storage of refuse and would in this respect not be detrimental to

pedestrian and highway safety. It would therefore accord with Policies ST3 and BH1 of the CSDP. These policies require development to ensure highway and pedestrian safety and achieve suitable design requirements.

Character and appearance

20. The proposal includes a brick infill on the side elevation and will introduce a new door facing Blandford Street. This elevation is elongated and serves two retail units. It is in an area characterised by a variety of buildings, advertisements and shop fronts, not all of which have retail displays.
21. The alterations would be a modest intervention to the external features of the building. These would not detract from the host building when compared to the scale of the building. Taking into account that the development would not significantly impact on the remaining primary retail windows, and that suitable materials could be conditioned, it would not be significantly at odds with the surrounding character of the area.
22. The area proposed for the refuse storage so appears to be enclosed by a roller shutter. The recessed refuse storage visually conceals bins. This part of the building is not a primary elevation, accessed down a side road and is not visually prominent. Their appearance in the wider area would be limited on collection days. Therefore, no significant harm to the character and appearance of the area would arise in this respect.
23. Consequently, the proposed development would not harm the character or appearance of the area and host building. The proposal would therefore accord with policy BH1 of the CSDP, which seeks to ensure design quality.

Other Matters

24. The National Planning Policy Framework (the Framework) sets out the need to significantly boost the supply of housing and that local planning authorities should plan for a mix of housing. That is reflected in policy SP2 of the CSDP and the HMO SPD.
25. The site is in a suitable location in terms of access to services and facilities to serve the day to day needs of residents, such as shops, leisure and health facilities as well as public transport links. Its residents would also be likely to provide support to local facilities and services, albeit the contribution is limited due to the scale of the development.
26. I note that the Council has also not found harm to living conditions of neighbouring residents, and I do not see a reason to disagree on this aspect. However, the absence of harm in relation to these matters weighs neither for nor against the proposal.
27. The site is identified as being within 6 km of coastal European habitat sites. Information to inform a Habitats Regulations Assessment is normally required to an Appropriate Assessment. The officer report sets out that policy NE2 of the CSDP requires a Net Gain in biodiversity, which could be secured by a Unilateral Undertaking or Section 106 legal agreement. There is no such agreement before me.
28. However, regulation 63(1) of the Habitats and Species Regulations 2017 (as amended) indicates the requirement for an Appropriate Assessment is only

necessary where the competent authority is minded to give consent for the proposal. Thus, given my overall conclusion on the main issue it is not necessary for me to consider this matter in any further detail.

Conclusion

29. I have identified that there would be harm to the living conditions of future occupiers, but not in respect of the refuse arrangements and character and appearance of the host building and area. This harm identified is not outweighed by these aspects.
30. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, either individually or in combination, that outweigh the identified harm and associated development plan conflict.
31. Therefore, for the reasons given above, I conclude the appeal should be dismissed.

K Williams

INSPECTOR