



Appeal Decision

Site visit made on 20 June 2023

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 June 2023

Appeal Ref: APP/M3455/W/23/3316880

59 Lingard Street, Burslem, S-o-T, Staffs ST6 1ED

- 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 G Handley against the decision of Stoke-on-Trent City Council.
 - The application Ref 67604/FUL, dated 25 January 2022, was refused by notice dated 12 September 2022.
 - The development proposed is proposed 2 bed dwelling (re-application).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The postcode in the banner heading above is taken from the appeal form and decision notice in the interests of clarity regarding the site location.
3. The Council has confirmed that there were 2 typing errors relating to 'proposed flats' and the 'Urban Design Guide' within reason for refusal (RfR) 4 of the decision notice. Reference should have been made to the proposed dwelling and the National Design Guide 2019 (NDG). I am satisfied that no party has been prejudiced by these errors, noting the clear description of development and that the NDG was clearly referenced in the other 3 RfR.

Main Issues

4. The main issues in respect of this appeal are the effect of the proposed development upon i) the character and appearance of the area and ii) the living conditions of the future occupiers with regard to internal and external space, and neighbouring occupiers with regard to outlook.

Reasons

Character and Appearance

5. The appeal site is a triangular parcel of land forming a side garden adjacent to, but not directly accessible from No 59 Lingard Street, a 2-storey end of terrace dwelling. As an undeveloped corner plot contained by low decorative railings, it contributes positively to the spaciousness of the street scene, in an otherwise built-up area that is mixed in character including residential, educational and industrial uses.
6. Consistently sited at the back edge of the pavement, the existing terraced dwellings step down to follow the topography of Lingard Street, with No 59

being the tallest building. This results in a strong pattern of containment to the street scene. The 3 dwellings of 55-59 Lingard Street are double fronted with a narrow plan form and shallower plot depth, compared to those at the opposite end of the terrace which have slimmer frontages and deeper plots. Despite individual changes to the fenestration treatment, window openings within the front elevations are vertically proportioned with those at first floor narrower than those on the ground floor below.

7. Being set back from the pavement and extending the full depth of the plot, the proposed dwelling would not respect the main 2-storey front and rear building lines of No's 55-59, excluding any subsequent single storey rear extensions. This arrangement would be contrary to the advice contained within R5 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance 2010 (UDG), that buildings must define the street space with a coherent building line, that relates to existing building lines where they form a positive characteristic of the area.
8. Moreover, the 'L' shaped plan form and shallower pitched roof would present a complicated form that would contrast with the simple, straight elevations and more steeply pitched roof of No 59. The ridge height of the eastern-most section of roof would step down in the opposite direction to the established pattern of diminishing roof heights, whilst the fenestration pattern would have a horizontal emphasis with no differentiation between the ground and upper floor windows. The scheme results in a proposal designed to fit the constraints of the site, rather than one which positively addresses the established pattern and character of development within the street scene. Construction from matching materials would not successfully mitigate the contrasting scale, position and form of the proposed dwelling.
9. The proposed development would have a significant adverse effect on the character and appearance of the area. Thus, the development would conflict with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (2009) (Core Spatial Strategy) which seeks amongst other things, to ensure that new development contributes positively to an area's identity and heritage in terms of scale, density and layout, an objective shared by the UDG. The proposal would further fail to comply with the National Planning Policy Framework (the Framework) and the NDG, both of which require high-quality design that responds to local character.

Living Conditions of Future Occupiers

10. R13 of the UDG advises that as density increases, the care with which a scheme is designed must increase, to make sure that dwellings will provide a good quality of life for residents, by providing adequate space, lighting, amenity space and outlook.

Internal Space

11. The Planning Practice Guide¹ advises that where a local planning authority wishes to require an internal space standard for new homes, they should only do so by reference in their Local Plan to the Department for Levelling Up, Housing and Communities Document, 'Technical Housing Standards - Nationally Described Space Standard' 2015 (NDSS). The Council acknowledges that the

¹ Paragraph: 018 Reference ID: 56-018-20150327.

provisions of the NDSS have not been formally adopted through the Core Spatial Strategy. Therefore, they can be ascribed little weight. Nevertheless, I concur with the Council's view that they provide a benchmark as to what can be considered as acceptable space standards

12. The proposed 2-bedroomed dwelling would provide approximately 61sqm of internal floor area², considerably below the 70sqm minimum standard for 2 bedroomed, 3 person dwellings. In addition, it is suggested that both of the proposed bedrooms at approximately 10.9sqm and 6.2sqm would be below the minimum size requirements of 11.5sqm and 7.5sqm for double and single bedrooms respectively, figures which are not disputed by the Appellant. Whilst the size of the double bedroom would not be significantly below the minimum standard, the second bedroom would be, providing insufficient space for a future occupant, likely a child, to play or do homework. With the limited sizes of the rooms downstairs as well, there are no other options within the dwelling to accommodate such uses. Cramped living conditions would thus arise from the limited room sizes, as well as the overall size of the dwelling.

External Space

13. A small garden would be provided between the front door of the proposed dwelling and the pavement of Lingard Street, suggested to be adequate for a terraced property. Although 27sqm is said to be provided, the Council consider that due to the shape of the plot, size of dwelling and need for bin storage, the useable area of the garden would be approximately 20sqm, a figure not disputed by the Appellant. Such a small space would not provide all of the space required for normal outdoor activities such as drying washing, children playing, sitting out and gardening.
14. Whether or not the size would be acceptable, the future occupiers would experience a significant and woeful lack of privacy to the garden area, due to its location at the front of the proposed dwelling and the frequency of passing vehicles and pedestrians accessing the nearby college and industrial uses. The limited internal space would be exacerbated by the lack of good quality outdoor space and vice versa, such that the proposed development would result in a poor standard of residential accommodation for the future occupiers contrary to the advice within R13 of the UDG.
15. Whilst nearby terraced properties have small rear yards, they are nonetheless located to the rear of the properties such that the occupants are afforded a degree of privacy. This contrasts with the proposal before me.

Living Conditions of Neighbouring Occupiers

16. The parties dispute the distance that would be maintained between the development and the windows belonging to neighbouring properties to the rear of the appeal site. The Council considers the distance to be 9m and the Appellant 18m. Neither party has clarified which specific properties and/or windows the distances relate to. Nevertheless, from the evidence before me and my observations on site, the properties located directly to the rear of the appeal site are those of 194-198 Moorland Road, the latter of which is subdivided into 2 flats; 198a and 198b.

² As cited by the Council.

17. The proposed development would result in a 2-storey elevation close to the rear boundary of the site, immediately adjacent to the rear alleyway. I am satisfied that the proposed development would be a sufficient distance from the main 2-storey rear elevations of No's 194-198, so as not to unduly restrict the outlook afforded to habitable rooms within the main body of the dwellings.
18. Although, the outriggers to No 194 and 198a and b do not contain rear facing windows, the single-storey rear outrigger to No 196 does. From the evidence before me and the site visit, I have been unable to determine the type of room this window serves. It may be a kitchen or other type of living space that provides outlook for the occupiers of the dwelling. The Appellant has not provided evidence to demonstrate otherwise. Given the uncertainty regarding this window and the potential harm that could be exerted to the living conditions of the neighbouring occupiers, through the oppressive enclosure of space arising from the scale and proximity of the proposed dwelling, it is reasonable to take a precautionary approach.
19. No evidence is before me to demonstrate that the previous dwelling extended the full depth to adjoin the rear boundary of the appeal site. It is likely to have followed the pattern of the double-fronted dwellings located at No's 55-59, being of no greater depth than the adjacent dwelling of No 59. Even if it was 2-storey and did extend to the rear boundary of the appeal site, the impact of the proposed new development must be assessed based on the current context of the appeal site. Harm has been identified in respect of the living conditions of neighbouring occupiers for the reasons given above.

Conclusion – Living Conditions

20. The proposed development would have an adverse effect on the living conditions of the future occupiers of the proposed dwelling, with particular regard to internal and external space. The Appellant has also failed to demonstrate that the proposal would not result in harm to the outlook afforded to the neighbouring occupiers of No 196. The development proposed therefore conflicts with Policy CSP1 of the Core Spatial Strategy which amongst other things, seeks to have private spaces that are safe and complement the built form, as well as new development that contributes positively to healthy lifestyles. It would also conflict with the Framework and UDG which require new development to have a high standard of amenity for future and existing users as well as the NDG, which requires private external spaces to be well-designed and fit for purpose.

Other Matters

21. Reference is made to the proposal providing an affordable dwelling for sale or rent for a single person or young/elderly couple for which there is substantial demand not provided for by the public or private sector. There is no evidence before me of such demand, or that the proposal constitutes affordable housing that meets the definition set out in Annex 2 of the Framework. Neither is there a mechanism before me to secure the proposal as affordable housing in perpetuity, such that I could attach weight to this as a benefit of the proposal.
22. Even if the proposal could be considered to be affordable housing, it does not inevitably mean compromises resulting in poor living conditions for future occupiers should be accepted. Suitable living conditions for future or existing occupiers should be created or protected, whether or not residential properties

are owner occupied or tenanted. The Framework, NDG and NDSS are clear that all new development is required to be high quality, that considers the health and well-being of future occupiers.

23. The proposal would deliver new residential development in a mixed-use and accessible location near to shops, public open space and public transport options. However, it cannot be assumed that occupants at the lower end of the housing market would not want or need an adequately sized home including a useable area of private outdoor space, or that their needs would not change over time. Adding to the range of local housing in a poor-quality manner, to the detriment of the character and appearance of the area and the living conditions of future and existing users would limit the amount of weight that could be attached to the suggested benefits.
24. The previous occupation of the appeal site by a dwelling that no longer exists does not imply a presumption that such development is acceptable now. Proposals for new residential development are required to comply with the provisions of the development plan in force at the time of the decision. In this case I have found the proposal to be contrary to such provisions.
25. Although the design of the scheme has evolved with a view to finding a solution to the reasons for refusal of a previous proposal³ this does not outweigh the concerns in respect of the specific proposal before me.

Conclusion

26. Given that only limited weight is attached to the suggested benefits of the proposal, namely the accessibility of the site and proximity to nearby facilities and services, this would not outweigh the significant adverse effect to the character and appearance of the area and the living conditions of proposed occupiers with regard to internal and external space, and future neighbouring occupiers with regard to outlook. There are no material considerations that lead me to determine the appeal otherwise than in accordance with the development plan. Accordingly, the appeal is dismissed.

M Clowes

INSPECTOR

³ Planning application reference 66801/FUL for the erection of one end of terrace residential dwelling.