



Appeal Decision

Site visit made on 14 June 2023

by N Duff BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2023

Appeal Ref: APP/M3455/W/23/3314424

Land used for storage and premises adjacent to 2 Warrington Street, Fenton, Stoke-on-Trent ST4 3LF

- 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 David Pawley against the decision of Stoke-on-Trent City Council.
- The application Ref 68199, dated 28 June 2022, was refused by notice dated 18 November 2022.
- The development is described as “proposed development site”.

Decision

1. The appeal is dismissed.

Main Issue

2. The effect of the proposed development on the living conditions of neighbouring occupiers and future occupiers of the proposed development with particular regard to privacy.

Reasons

Background

3. The appeal site is located adjacent to No. 2 Warrington Street and is an undeveloped parcel of land in a residential area. The site has residential development surrounding it on four sides with dwellings opposite the entrance to the site. A narrow service road is to the rear of the site between the appeal site and properties behind. The site has an extant outline planning permission for a pair of semi-detached dwellings. This proposal relates to 4 flats, with the appearance of a pair of semi-detached dwellings, there is a vehicular access from the highway, which is currently gated, the existing use is described by the parties as a commercial site and more specifically used for commercial storage.
4. The Council’s reason for refusal in the Decision Notice does not set out what aspect of harm to living conditions or which property or properties would be affected by the proposal. However, the report of the Council officer does provide greater detail with regard to the proposed effect of the development on living conditions. This focuses on future occupiers of the proposed ground floor flats and occupiers of No.2 Warrington Street.

Living Conditions

5. No. 2 Warrington Street is split into two flats and has a large square bay window immediately facing the site at ground floor level, which based on the evidence provided by the appellant serves a bedroom, with no boundary

treatment separating the appeal site and the neighbouring property. The plans provided show no boundary treatment proposed to separate the two sites on this side of the development where the window is located.

6. There would be no direct overlooking from windows of the proposed development to the ground floor window of No. 2 as the side elevation of the proposed building is blank, save for two small bathroom windows. However, the plans show bin storage on the side of the development site closest to the window of No.2, including the pedestrian walkway which serves the bike storage area, the shared garden area of the upper flats and the rear entrance of the proposed building. The walkway past the window of No. 2 would likely see a lot of activity with the comings and goings of residents to and from these services, in addition to entering and leaving the site itself.
7. Furthermore, the window would be within close proximity to the car parking area for the development which is at the front of the building and would be an area of higher activity on the site. It is likely therefore that due to the proximity of the window to the more active part of the appeal site, that occupiers of No. 2 would feel obligated to either close curtains or blinds to make their accommodation feel more private, or that they could not use the room as they would like to due to a lack of privacy.
8. Consequently, due to the level of activity likely to occur outside of the bedroom window due to the site configuration and the window's location within the site, the development as proposed would have a detrimental effect on the living conditions of the occupiers of No.2, with regard to loss of privacy and potential noise and disturbance.
9. The appellant has suggested that a wall or fence could be erected which could alleviate the privacy issues for occupiers of the ground floor flat of No. 2. However, I have no details before me of the proposed boundary treatment and where it would be situated. Therefore, I am unable to assess the effect of the proposed boundary treatment on the occupiers of No.2, particularly regarding any loss of light or loss of outlook that may arise due to proximity to the bedroom window. Therefore, this does not overcome the harm identified to the living conditions of occupiers of No.2.
10. The appellant has stated that the previous outline planning permission for residential development at the site showed no boundary treatment between No.2 and the application site on the indicative layout drawing, and neither was a boundary treatment required by condition. The extant planning permission was in outline form with all matters reserved, and layout, landscaping and access among other matters would all be dealt with separately. Therefore, more detailed design matters would likely be reviewed at the reserved matters stage, including the interface between neighbours at No. 2 and the development site. Therefore, as this was not a detailed planning consent and does not provide a privacy solution for neighbouring occupiers, I am only able to give this limited weight.
11. The appellant has stated that the existing use of the site is a less favourable use within a residential area compared to the proposed development, having regard to the privacy afforded to the bedroom window of No. 2. Whilst I agree that a residential use is likely to be preferable to a commercial use immediately adjacent to the window of No.2, the commercial use and interface between the two properties is existing and I have not been made aware of any conflict

between the two uses in the evidence provided, and therefore this attracts only limited weight in the planning balance.

12. The report of the Council's officer refers to the siting of the car parking spaces within the development, whereby occupiers of the first floor flats of the proposed development would park adjacent the ground floor living room windows of the ground floor flats, and how this arrangement could cause privacy issues. The car parking spaces and the ground floor windows would be within close proximity to each other, however, the users of the spaces would live within the development and going to and from the cars would be transient in nature. Furthermore, the appellant has stated that the car parking bays would be allocated to each flat, which would give a degree of certainty to future occupiers regarding what would be expected when living in the development. For these reasons, whilst this could affect privacy and create disturbance to some degree, I do not consider this matter to be significantly harmful to the living conditions of future occupiers.
13. The evidence from both the appellant and the Council state that there are no other significant issues regarding living conditions of neighbouring or future occupiers other than those identified above, and I have no reason to disagree with this.
14. Nevertheless, for the reasons mentioned above, I conclude that the proposed development would have a detrimental effect on the living conditions of neighbouring occupiers of No.2 Warrington Street. It would therefore fail to accord with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CS) which requires new development to be well designed and to have private spaces that are safe and compliment the built form, and Strategic Aims 4 and 16 of the CS which seek to balance the supply and demand for quality housing and deliver good design.
15. The proposal would also be contrary to Policies R15 and R17 of the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (SPD) which seek to ensure that the impacts upon surrounding buildings and spaces are reasonable in terms of sunlight, daylight, privacy and overlooking and that buildings are designed to provide reasonable levels of visual privacy to habitable rooms.
16. The proposal would not accord with paragraph 130 (f) of the National Planning Policy Framework which states that decisions should ensure that developments have a high standard of amenity for existing and future users.

Other Matters

17. I note that the Council consider that the broad principle of development, the design of the proposed development in visual terms, highway safety and risk from coal mining in the area to be acceptable, I have no reason to disagree with these conclusions based on the information provided.
18. The appellant has stated that a benefit of the proposal would be the improvement to the character and appearance of the area through the introduction of 4 homes in a residential area. Whilst I agree that the proposal would be a visual improvement to the site and provide additional housing which is beneficial, this matter is afforded limited weight and does not overcome the harm identified in the main issue.

Conditions

19. It has been suggested by the appellant that a boundary treatment could be secured by condition between the appeal site and neighbours at No.2. However, this would not be appropriate as the boundary treatment would require a full assessment particularly regarding the effect of the boundary treatment on the living conditions of neighbouring occupiers of No. 2.

Conclusion

20. For the reasons set out above, I conclude that the proposed development for four 1 bed units, would not accord with Policy CSP1 and Key Statements 4 and 16 of the CS or Policies R15 and R17 of the SPD. Although the proposal does not conflict with other policies of the development plan, this leads me to conclude that the proposal conflicts with the development plan as a whole. Thus, having had regard to all other matters raised the appeal is dismissed.

N Duff

INSPECTOR

