



Appeal Decision

Site visit made on 29 August 2023

by L Hughes BA (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 September 2023

Appeal Ref: APP/M3455/W/23/3319614

11 Snow Hill, Shelton, Stoke-on-Trent ST1 4LU

- 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 Abdul Jabbar-Ali against the decision of Stoke-on-Trent City Council.
- The application Ref 66991, dated 14 October 2021, was refused by notice dated 17 November 2022.
- The development proposed is a 2.5 storey development containing 8 No. apartments (Class C3) with associated external refuse/cycle store, retaining wall and landscaping.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Amended plans were submitted during the application determination period, which changed the original proposal from a three-storey mixed use development containing 2 No. ground floor retail units and 8 no. one-bed apartments to a 2.5 storey property to provide 8 No. apartments. The Council's decision was made on the basis of these amended plans, and I have amended the description in the banner heading accordingly.

Main Issues

3. The main issue is whether the development would provide acceptable living conditions for future occupiers, with particular reference to privacy, light, outlook, outdoor amenity space and waste facilities.

Reasons

4. The proposed development is for an apartment block which would comprise three residential units on the ground floor, three residential units on the first floor, and two residential units in the roof space. All the units would be one-bedroom, as indicated in the submitted plans. The site is located in an urban setting, and currently forms part of an existing car sales yard area and land to the rear of an existing office building. The surrounding buildings are predominantly a mix of residential and retail. To the rear of the site, and at a higher ground level, lies heavily vegetated vacant land.
5. The development plan for the area is the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026 (CSS). Policy CSP1 of the CSS relates to design quality, and amongst other things, seeks that new development is well designed and contributes positively to healthy lifestyles. Further guidance is contained in the Newcastle-under-Lyme and Stoke-on-Trent Urban Design

Guide supplementary planning document (SPD). Section R15 of the SPD states that 'buildings must be designed to provide reasonable levels of visual privacy to habitable rooms'. R17 states that key considerations must be that windows are positioned so as to ensure privacy without compromising the need for light, and that private rooms, such as bedrooms, should be positioned on the less public side of the building.

6. The ground floor apartments to the north elevation of the proposed development would have windows from habitable rooms which would face directly on to the path running between the proposal and the neighbouring office building, and which would provide rear access to the apartments, their communal gardens and bin store. Due to the location of the office building which is only between 1m and 1.5m away, this path would be narrow and necessitate people passing extremely closely to the windows. This would lead to an unacceptable lack of privacy for the future occupiers of these apartments.
7. I noted from my site visit that along with two doors at ground level, the office has five windows at the first-floor level on its elevation facing the proposed apartments. It is likely that from these windows there would be views into the windows of the proposed first-floor apartments, at very close proximity.
8. The ground floor apartment at the rear of the proposed development would also suffer from privacy issues, as the path runs to the rear of its lounge and bedroom windows. Landscaping has been proposed to act as a buffer. However, due to the landscaping being in close proximity to the apartment's windows, this would have a negative effect on amenity in other ways, such as a loss of light into the affected habitable rooms.
9. The two ground floor apartments that face the road have bedroom windows which would face directly on to the street. Although the appellant has indicated that landscaping would be provided to afford privacy to these rooms I do not consider that this would be an acceptable solution. There would be inadequate space to the front of the building to allow for planting to any mitigating degree. Furthermore, any landscaping directly outside the front windows of the proposed development would lead to a loss of light into the rooms. This would be particularly problematic for the ground floor flat nearest the offices which lies in very close proximity to the pavement.
10. The rear second floor apartment would have a north facing window. The bedroom would be a L shaped design with the window positioned at the narrowest point. This would allow for only a limited amount of natural light into the bedroom. As currently proposed, the layout of the apartments would not lead to acceptable levels of privacy or light for future occupiers.
11. The collection of waste from the proposed development could be controlled by a condition. However, whilst the neighbouring office building is outside the application site, the pathway which provides side access and bin storage for the office is within the application line. This pathway would also provide access to the rear of the proposal and would run alongside the ground floor apartments. This would be problematic for the future occupiers, leading to potential odour issues and difficulties with unhindered movement along the path.
12. Section R19 of the SPD also states that a key consideration for developments should be that 'a reasonable outlook for each dwelling' is provided. The ground floor apartment at the rear of the proposed development would look out on to a

high retaining wall. The Council has indicated that due to concerns regarding the accuracy of the appellant's section drawings, there is a possibility that the first-floor rear flat may share the same outlook.

13. However, the wall would be sufficiently distant from the windows, and planted to give a living wall green view. I consider that the green outlook from the ground floor rear flat would not be unreasonable, and the first floor flat would likely have a more open view beyond the wall, which would not be inappropriate in the context of a built-up urban area. I therefore consider the outlook from the lounge and bedroom windows of the rear ground and first floor flats to be adequate.
14. Concerns have been raised regarding the size and quality of the proposed outdoor amenity space, and to the fact that it would be relatively enclosed. The appellant has drawn my attention to an appeal decision (APP/M3455/C/16/3148800 & 3148802) which stated that available local open space in the area is a factor to be taken into account. However, I note that the appeal decision quoted by the appellant was for a single storey rear extension on one property. This decision does not override the development plan or guidance within the SPD. Policy CSP1 of the CSS states that development should have public and private spaces that are safe and attractive. Section R16 of the SPD states that developments must provide some form of private or shared communal outdoor space and that the space should be useable and should relate to the house type or occupiers.
15. However, the relevant policy and SPD do not specify a quantity of outdoor amenity space. Additionally, having outdoor amenity space that is relatively enclosed is not necessarily problematic or a negative feature. As such I do not consider that the outdoor amenity space provision would be in conflict with the development plan or SPD.
16. My attention has been drawn to a recent appeal decision in the same local authority area for the conversion of an existing building to 9 residential units, with extensions to create a further 2 units (APP/M3455/W/22/3306259). This appeal was allowed, and the appellant has suggested that there are similarities between this appeal and the proposal which found that the living conditions for future occupiers were acceptable in terms of outlook and daylight. However, the schemes are not directly comparable. The appeal that was allowed was not for the development of a purpose built new building, for example. Additionally, the reasons for refusal in the appeal decision referred to did not include whether the development would provide acceptable living conditions in terms of privacy, as is the case here. I have reached my own conclusion on the appeal proposal which I have assessed on its own merits.
17. I therefore conclude that although the proposal would provide acceptable living conditions for future occupiers in terms of outlook and outside amenity space, the proposals would result in an unacceptable standard of living conditions for future occupiers in relation to privacy and light and the siting of neighbouring waste facilities. As such the proposed development would be contrary to Policy CSP1 of the CSS, Sections R15 and R17 of the SPD, and relevant guidance of the National Planning Policy Framework and the National Design Guide, all of which seek to ensure a good standard of design and amenity.

Other Matters

18. The Council has concerns that the details submitted were not of sufficient accuracy to fully assess the proposal. The appellant has argued that if any plans are incorrect, any issues can be dealt with by the enforcement process. I agree with the Council that it is the responsibility of the appellant to provide sufficient information to enable the proposals to be fully and accurately assessed. I have determined the appeal on the proposals which have been submitted, and consider that the information provided is sufficient for me to make my decision.
19. I understand that the appellant worked with the Council to provide revised plans in order to improve the design of the scheme, and the apartments would meet the Nationally Described Space Standards. There have been no issues raised regarding air pollution or noise, and highways have raised no concerns regarding parking. The site is an efficient use of land, is close to amenities and services and would provide much needed housing. However, none of these matters outweigh or alter my overall concerns regarding the living conditions for future occupiers with regard to privacy, light and the siting of neighbouring waste facilities.

Conclusion

20. The proposal would conflict with the development plan when taken as a whole and there are no material considerations which would indicate a decision other than in accordance with the development plan.
21. For the reasons given above I conclude that the appeal should be dismissed.

L Hughes

INSPECTOR