



Appeal Decision

Site visit made on 29 December 2023

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16th January 2024

Appeal Ref: APP/A4520/W/23/3331006

172 Dean Road, South Shields NE33 4AQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr Reza Naseri Vahid against the decision of South Tyneside Council.
 - The application Ref ST/1034/22/FUL, dated 20 January 2023, was refused by notice dated 21 July 2023.
 - The development proposed is described as, '*subdivision of a retail shop unit into 2 units (Barber Shop & Fruit and Vegetable Shop). To include the removal and replacement of existing shopfront to facilitate the subdivision. (Shopfront alterations increase floor area by 2.4M Sq overall)*'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The unit subject to this appeal has already been subdivided into two units and the shop front has been altered to form two separate entrances. I have therefore determined the appeal accordingly.
3. The works that have already taken place on site do not fully accord with the drawings submitted as part of this appeal. I have therefore determined the appeal based on the plans the Council based its decision on.

Main Issue

4. The main issue is the effect of the proposed development on access for all users to the property and whether the submitted plans satisfactorily illustrate the development for which retrospective planning permission is sought.

Reasons

5. The appeal site relates to a retail unit located along Dean Road which is the main (district) shopping centre and is set on a parade of shops which front the pavement and main road. It has been subdivided into two units with one half operating as a barber and the other half described as being vacant but indicated to form a fruit and vegetable shop. It appears undisputed that the main entrance door was previously central and recessed with level access from the pavement but has been altered to be flush with the front elevation forming two entrances for each unit. The property is located on a slope which means that there is now a step up from the pavement into the units with the westmost unit being of a greater step up from the eastmost unit although it is claimed by

the appellant that the eastmost unit is able to achieve a level entranceway as it is at the top of the slope.

6. Policy DM1 of the South Tyneside Development Management Policies, 2011 (DMP) relates to management of development and explains under provision (I) that the needs of all users for access around sites and into buildings for public use are considered as an integral part of the development. The supporting text accompanying the policy sets out that in the interests of access for all, new buildings for use by the general public and buildings where substantial alterations are being made, for example new shop fronts, should demonstrate that their entrances are designed with an adequate opening width and level thresholds, or that ramps are provided to comply with Building Regulations and the Disability Discrimination Act.
7. The previous arrangements meant that the shop was accessible for all users. However, the works carried out has resulted in a deterioration to the previous access arrangements particularly for those using wheelchairs. I appreciate the difficulties associated with creating a level access in this location including age/design of buildings and that many other retail/commercial units have a step up from the pavement some of which are indeed higher than that of the appeal site and thus would be as accessible as many other units in this location. Nonetheless and even if I accepted that the eastmost unit is able to achieve a level access, the works carried out now means that access particularly to the westmost unit is not possible for all users, mainly those using wheelchairs with no ramps or other methods proposed to achieve access for all members of the public. The presence of other similarly accessed properties nearby would not justify the current arrangements particularly given that the unit did previously benefit from a level access. I do not dispute that for some people with limited mobility, steps can be more preferable to ramps, and I note the recommendations set out within Part M of the Building Regulations. However, a stepped approach with no alternative means of access would still prohibit access for a number of users.
8. I understand from the officers' report that the appellant has suggested an external ramp to be constructed to the units, located on the pavement and moveable when required although I have very limited details of this to be able to consider it further. Notwithstanding, I note the Councils' Transport Development Officers' advice that any external ramp which would be located upon the pavement, which forms the adopted highway, would not be acceptable. Given the lack of detail in this regard including any plans showing the exact location, then on the evidence provided, I am not satisfied that this would be an appropriate solution in this case or that this matter could be secured by way of a planning condition.
9. I have had regard to the benefits arising from the proposal including bringing the property back into use, job opportunities, additional business to the area and business rates. However, such matters would not be sufficient to outweigh the harm identified and I am not convinced based on the evidence before me that such matters could not be achieved by a scheme that would be less restrictive for its users particularly as the previous arrangements provided for level access.
10. Although the plans submitted do not show that the property is on a slope or the step up from the pavement, I do not find this to be so problematic in

understanding the overall nature of the works for which retrospective planning permission is sought. I agree that there is some inconsistency between the shopfront design as shown on the submitted plans and the shop front as constructed. However, as set out above, I have determined the appeal based on the plans the Council made its decision on.

11. For the above reasons, I conclude that whilst the detail shown on the submitted plans is less of a concern to me, the development unacceptably affects access for all users to the property. On this basis, the development is contrary to Policy DM1 of the DMP. For the same reasons, the development is also contrary with the aspirations of the National Planning Policy Framework relating to promoting sustainable transport.

Conclusion

12. For the above reasons, and having regard to all other relevant matters raised, I conclude that the appeal should be dismissed.

N Teasdale

INSPECTOR