



Appeal Decision

Site visit made on 5 December 2023

by Geoff Underwood BA(Hons) PGDip(Urb Cons) MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 17th January 2024

Appeal Ref: APP/W0734/W/23/3320482

The Junction, 2 Union Street, Middlesbrough TS1 5PQ

- 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 Hall against the decision of Middlesbrough Borough Council.
 - The application Ref 22/0085/FUL, dated 7 February 2022, was refused by notice dated 17 February 2023.
 - The development proposed is demolition of existing public house and the erection of multiple-storey building to provide student accommodation (sui generis).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was amended while it was under consideration by the Council, omitting café and retail uses at ground floor originally included as part of the submitted application. The Council made its decision on the revised scheme and I have determined the appeal on that basis. The description in the heading above is therefore taken from the Appeal Form and the Council's decision notice and more accurately describes the revised scheme.
3. Since the appeal was made and representations received, an updated version of the National Planning Policy Framework (the Framework) has been published. Apart from the paragraph numbers changing in some cases, those policies relied on by the main parties remain more or less unchanged. I have determined the appeal with regard to the latest version and in doing so no parties' interests will have been prejudiced. For the avoidance of doubt, I have referred to the paragraph numbers in the latest version in this decision letter.
4. One of the Council's reasons for refusal related to the effect the development would have on the condition of the Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site. However, for the reasons set out below it has not been necessary to deal with this as a main issue in determining the appeal.

Main Issues

5. Therefore, the main issues raised by this appeal are the effect the development would have on: the character and appearance of the area; the living conditions of occupiers of nearby dwellings, with particular regard to light and outlook, and; parking conditions.

Reasons

Character and appearance

6. The site is on a prominent corner location occupied by a two-storey former pub. It sits at the end of the straight alignment of Borough Road along which long distance views are afforded. The vicinity is predominantly residential in character. As well as an area of cleared housing alongside Borough Road, three storey townhouses are under construction to the south of the site along Union Street and Diamond Road.
7. To the north and west lie the two storey terraces of the housing estate focused on Eshwood Square which immediately adjoins the rear of the site. The nearby four storey flats in and around Westward and Monkland Closes have their ground floors set down from Hartington Street level and as a consequence do not feature as significantly taller than their neighbours. This limited range of building, roof and ridge heights has created a townscape of relatively consistent scale and residential character in the wider vicinity of the site which is a positive quality of the area.
8. The proposal would comprise a block of varying heights ranging from ten storeys on the corner of Hartington Road and Union Street, stepping down to five storey elements farther along those street frontages and with an intervening seven storey element. It would be distinctly taller than its current surroundings of predominantly two and three storey buildings.
9. Within this context the mass, bulk and height of the proposed block would appear as a stark contrast to its considerably lower surroundings, which would be perceptible from some distance. The townscape of Middlesbrough is not without buildings which appear noticeably taller than their neighbours and create features on the town's skyline visible for some distance. However, these are largely situated around the considerably more densely developed commercial centre and farther along Borough Road. This present configuration of the built form of the town means that the proposal would appear as an isolated block at some height above its surroundings. This would have an adverse effect on the townscape of the surrounding area and on the overall three dimensional structure and form of the town, with the consequential erosion of the legibility of the area.
10. The proposed building would dominate its immediate surroundings. The stark contrast in heights between existing and proposed buildings would be particularly pronounced between the tallest part of the proposal and two storey terraced houses immediately to the rear on Hornby Close. This relationship would lead to the proposal visually overpowering the more intimate streetscape and dwellings on Hornby Close and Eshwood Square. Although three storey and set slightly back from the tallest part of the proposal, a similar contrast in heights would result in relation to the houses under construction on Union Road leading to an uncomfortable visual imbalance.
11. The Council's Urban Design SPD¹ (UDSPD) recognises that prominent buildings can become a landmark, helping with legibility, and that an increase in height can emphasise junctions. In this case the building would provide a focal point and a visual full stop at the west end of Borough Road. However, experienced

¹ Middlesbrough's Urban Design Supplementary Planning Document, 2013, paragraphs 7.2 and 7.3.

close by it would tower over its neighbours in an awkward and visually unsettling juxtaposition between the predominant two and three storey buildings in its immediate setting. The evidence does not demonstrate that the only way of achieving the benefits of a strong, legible development on this important corner site would be by way of a building of the height, mass and bulk proposed, and this aspect of the proposal carries limited weight as a result.

12. The stepped back form of the building would go some way to breaking up its apparent mass when viewed from the south west where street trees along Union Street would also filter views of the side elevation. However, this would not overcome the harmful effect of those largely featureless elevations whose height would exacerbate their unappealing effect.
13. Unlike the south-west elevation, an attempt has been made to distinguish the different height elements of the building along the Union Street and Hartington Road frontages in the way materials would be arranged above ground floor level. Nevertheless, overall the building would lack coherence. This would be due to the variety and contrast in walling materials including dark brick, render, panels and glazed walling, and the disposition of these elements across the facades of the building. The different window configurations, including the horizontal alternation of smaller square windows with slightly larger oblong ones, the latter grouped in vertical bands of contrasting surrounds on part of the Union Street elevation, along with a framed element similar to the corner feature but with distinct horizontal divisions, would compound this effect. The Hartington Road elevation would similarly lack cohesion and elegance in its fenestration with the two differing treatments of glazing within the frame features interspersed with smaller windows.
14. The corner feature of glazed walling enclosed in its projecting frame would have the potential to add some strength and distinctiveness to the design in its focal point location facing down Borough Road. However, when set within the otherwise weak and inconsistent treatment of much of the rest of the elevations, this would be insufficient in itself to raise the overall quality of the design.
15. There is a tension in the design approach to the building when dealing with its height. On one hand, devices such as different materials and breaking down some of the actual and apparent mass with a variation of heights have been employed. On the other, the appellant's aim of providing a landmark building has influenced some aspects of the design. Unfortunately, the proposed scheme would achieve neither successfully.
16. The expression of the top floor on the taller part of the Union Street and Hartington Road elevations would go some way to creating a visual top to the building which would be in proportion to the overall height. However, whilst a projecting cornice on the corner would give a degree of definition to the top of the building, other more extensive parts of the uppermost part of the building would display a weaker and less defined vertical termination of the structure, not assisted by the variety of the positions of cornice devices on the different blocks. Overall the proposed treatment would do little to create a positive feature on the skyline.
17. Given the site's situation within an area undergoing regeneration and the somewhat neglected condition and the poor appearance of the ground floor

frontages of nearby buildings on Borough Road, the treatment of the ground floor on the two main street frontages would be a particularly important aspect of any proposal. At ground floor level the plinth of the building would be largely solid only punctuated by small windows. The right-angled footprint of the building where it would meet the junction would not assist pedestrian movement or legibility around the corner where the footway is narrow. Unlike the treatment above, there would be no expression of the focal corner of the building at ground level where it would do little to interact with its surroundings nor make a positive contribution to the public realm.

18. Together these aspects would mean that where the building would meet the ground, there would be a lack of visual interest, permeability and it would create a bland and uninteresting environment where people would experience the building close up. This approach would not follow the UDSPD's² recognition of the importance of active frontages on prominent corner sites.
19. The blank elevation closest to Hornby Close, whilst avoiding windows facing the nearby houses, would be clearly visible along Hartington Road beyond the intervening two storey houses and appear featureless and bland in harmful contrast to the smaller scale facades of brickwork punctuated by windows of existing buildings which run along the street. The angled oriel windows arrayed across much of the rear elevations have the potential to enliven that aspect of the building creating a texture to the otherwise flat elevations. However, these features would not, in themselves, raise the architectural interest to a level that would overcome the visual harm from the blocky and bulky rear elevation.
20. Bearing in mind these adverse effects, there has been very little attempt in the appellant's brief Design and Access Statement or elsewhere to fulfil the UDSPD's requirement³ that tall development proposals are accompanied by detailed information showing the proposals in context to demonstrate the impact the proposals will have on the wider area. Consequently, there has not been the demonstration of the architectural quality the UDSPD requires tall building proposals to exhibit.
21. Although clearance and new house building is taking place in the immediate vicinity, there is no evidence that a building of the height or appearance proposed would be necessary to act as a beacon for regeneration activity in the area nor that it would stimulate further investment.
22. I have been presented with very little information about the approved scheme for the site. However, given the descriptions provided it is clear that this was a scheme of a very different scale, being up to five storeys high, and as such would have quite different townscape effects. I am not able to evaluate the appellant's claim that this previous scheme would fail to emphasise the junction from farther down Borough Road. In any event, even if it did fail in this respect, for the above reasons the proposal before me would not do so in a positive way.
23. Notwithstanding that some elements of the design may be acceptable in isolation, considered overall the bulk, mass, height, appearance and detailing of the proposed building would considerably harm the character and

² *Ibid.* paragraphs 7.2, 7.3 and 7.6.

³ *Ibid.* paragraph 7.5.

appearance of the area. This would be contrary to Core Strategy⁴ (CS) Policy CS5's high quality design requirements and CS Policy DC1's development principles, as well as the guidance in the UDSPD which supports them.

24. The Framework states at paragraph 139⁵ that development that is not well designed should be refused, especially where it fails to reflect local design policies, which for the above reasons this proposal would fail to do. The development would not meet the Framework's requirements at paragraph 135⁶ that developments should, amongst other criteria, function well and add to the overall quality of the area, are visually attractive as a result of good architecture and are sympathetic to local character and history, including the surrounding built environment.
25. The proposal would achieve a high density of development. However, the Framework's support for efficient use of land at paragraph 128⁷ requires taking account of factors including, amongst others, the desirability of maintaining an area's prevailing character and setting, and the importance of securing well-designed and beautiful, attractive and healthy places. Any benefits of making effective use of a presently unused site would be outweighed by the adverse effects of failing to satisfactorily address those factors.

Living conditions

26. A number of dwellings on Hornby Close and Eshwood Square would be situated in very close proximity to the proposed building. In particular, 1-4 Hornby Close present rear or side elevations onto the site and are separated by gardens. The outlook from these properties would be severely hampered by the bulk and mass of the building, an effect compounded by the five storeys of blank elevation they would face. The slight set back above the fourth floor would do little to lessen this effect given the overall height of the building above it that would remain apparent.
27. Whilst they are set end on to the site, the even closer proximity of 50-53 Eshwood Square would also mean that the development would have an overbearing effect when viewed, albeit at an angle, from rear windows of those properties. Those at 5-9 Hornby Close would suffer from a similar effect, albeit they would be set slightly farther from the proposed building.
28. This overbearing effect would also be experienced in the gardens which lie between Nos 1-4 and the site. Whilst these experience a degree of enclosure already, the levels of enjoyment that they might offer with the proposal in place would be considerably eroded. A similar overbearing effect would be experienced in the detached gardens adjacent to Nos 50-53 which abut the site. The set back, and step down, of the building would only have a limited effect given their proximity to the new building.
29. The height of the proposed building would be likely to cast a shadow over those properties and gardens to the north-west of the site for considerable parts of the day, particularly at times of year when the sun is lower in the sky. Not only would this compound the overbearing effects but would also be likely to result in rooms in the houses closest having a considerable loss of daylight and

⁴ Middleborough Local Development Framework – Core Strategy, 2008.

⁵ Previously paragraph 134.

⁶ Previously paragraph 130.

⁷ Previously paragraph 124.

sunlight. This restriction of sun and daylight would also significantly reduce the attractiveness and useability of garden spaces.

30. I have not been presented with any assessment or analysis of the effects of the building on sun and day light to surrounding buildings and spaces that may indicate that these effects would be lessened or avoided. Similarly, no comparison between the effects of the approved scheme on the site and that proposed has been provided that might support the appellant's assertion that the effects of the two would be similar.
31. The development would give rise to considerable harm to the living conditions of occupiers of nearby dwellings, in particular those living in Nos 1-9 and Nos 50-53.
32. Mature trees in some of the gardens will no doubt have an effect on outlook from, and light reaching, the homes they are close to. However, these effects would be less marked when trees are not in leaf and any adverse effects on light may well be balanced by a pleasing outlook. Their presence would not adversely affect the living conditions of nearby occupiers to any extent that would make the harmful effects of the development less intrusive. Conversely, the trees are not so extensive in stature or spread as to effectively screen the development to an extent that would alleviate its harmful effects on outlook. In any event they are outside the appellant's control and their retention cannot be assured.
33. The development would be contrary to CS Policy DC1 which, amongst other criteria, requires development to satisfy the principle of having a minimal effect on the amenities of occupiers of nearby properties.

Parking

34. The development has been advanced as a car free one, an approach the Council welcome in principle. The drawings show two parking spaces and a limited set down area within the site which the appellant advises would be for pick up and drop off rather than resident parking.
35. The Council were apparently content that the previously approved scheme, which made no on-site parking provision, was acceptable in light of that scheme's cycle parking levels. The appeal scheme proposes providing 110 cycle spaces for the 183 rooms, albeit that the access arrangements to those spaces would be convoluted, less than convenient and potentially incompatible with the bin store access as illustrated. Although not referring to any cycle parking standards, the Council consider that this scheme should provide a one-to-one cycle to resident ratio. The appellant's Transport statement (TS) makes reference to a regional cycle standard of 6 cycles to 30 residents for student accommodation. The basis on which the Council consider that a one-to-one provision would be necessary has not been substantiated.
36. However, the TS provided relates to the previously approved mixed-use development which had considerably fewer student rooms, different uses at ground floor and a different access configuration. Its findings cannot consequently carry any weight, albeit that information not specific to that previous scheme remains of some use.
37. Although there is little information about where future residents would be likely to travel to study I noted that there are a concentration of university buildings

relatively close to the site and within walking distance. An illustration in the TA shows the site to be situated at a node on the strategic walking and cycling corridors which also link up with those university buildings and the town centre.

38. I am also conscious that the choice of whether a future resident may want to park a vehicle nearby may not directly rely on travel between accommodation and place of study, but could include other reasons. The Council have not directed me to any policy or guidance relating to car free development and the mitigation expected to be put in place in such circumstances. However, the evidence does not indicate that a higher level of cycle provision would necessarily deter those who are determined to bring a car to do so, albeit it is unclear how many might be likely to.
39. As the two spaces on site would not be available for general resident parking any future residents' vehicles would need to be parked elsewhere. Most of the immediately adjacent streets have parking restrictions in the form of double yellow lines or only support short term stays. This may make it likely that those with cars may seek to park them on nearby residential streets and this may include the Eshwood Square estate, which from my observations has parking restrictions during the day in the form of permit holder parking, but not at other times.
40. The Council have not directed me to any approach that might indicate that residents of the development would not be able to apply for a permit to park on nearby streets. Nor is there any substantive evidence that these areas are experiencing high levels of parking stress. The potential would exist for increased competition for spaces amongst permit holders, or more vehicles being parked in the area outside of permit restricted hours. This in turn has the potential to cause inconvenience and frustration to existing occupiers. However, I have no evidence to suggest that spaces would be at such a premium that drivers would park insensitively or dangerously, nor that any issues would be incapable of being resolved by the management and enforcement of restrictions that are in place.
41. Overall, the evidence falls well short of demonstrating that any parking demand that may arise from the development would be of an extent that would lead to material harm to neighbours' living conditions or an adverse effect on the environment by way of cars being parked outside of permitted places.
42. The parking demand from drop off and pick up at term start and end times would be likely to be temporary in nature but has the potential to be intensive given the numbers of residents who might arrive within a short time of one another. The two on site spaces would in all likelihood be insufficient to make suitable provision and even if a marshalling system were in place, drivers of vehicles would no doubt seek to wait close by awaiting their turn.
43. However, I observed that opposite the site there were a number of on street parking bays along Union Street which permitted a two hour stay and this would appear to be suitable for dropping off and picking up occupiers, assuming that spaces were available. Should spaces not be available there, it is possible that drivers may seek to park up within nearby residential streets. Some of these permit short term parking as well as permit holders, whilst the Eshwood Square estate is restricted to permit holders only during the day. There exists the possibility that drivers might ignore this to the frustration of existing occupiers, but in the absence of any substantive evidence to the

contrary this too would appear to be capable of being managed through the enforcement of existing parking restrictions.

44. The absence of a relevant and up to date TA, of details of the proposed management arrangements of the accommodation particularly during pick up and drop off periods and of a lack of clarity that cycle parking would be convenient, accessible and workable in combination with the bin store access above it, weigh against the proposal, and could be contrary to criterion a) of CS Policy DC1, which requires sufficient information to be provided to enable applications to be determined. Nevertheless, the application was determined and it has not been demonstrated that the proposal would lead to a materially adverse effect on parking conditions, and consequently on the living conditions of nearby residents, to the surrounding environment nor the capacity of transport infrastructure. It would therefore avoid conflict with CS Policy DC1 considered overall.

Planning Balance

45. There would be some benefits arising from the scheme including temporary ones by way of employment and economic activity through the construction phase, and ongoing benefit by way of providing residential accommodation which in turn would make a contribution to economic activity by way of residents' spending in the local economy and supporting servicing staff or contracts. The development would be in line with the Framework's recognition of the Government's objective of significantly boosting the supply of homes and would bring an unused site back into beneficial use. The overall avoidance of harm in terms of effects on parking conditions is a neutral factor.
46. However, in the absence of any evidence to the contrary, those benefits would be modest in scale and would not outweigh the considerable harm that would result to the character and appearance of the area, and to the living conditions of nearby occupiers of residential properties. The development would be contrary to the development plan considered as a whole, Council guidance and the Framework. Other material considerations do not indicate making a decision otherwise than in accordance with the development plan.

Other Matters

47. I have had regard to the Habitats Regulations⁸ in determining this appeal, in particular with respect to nutrients entering the river Tees and consequent effects on the condition of the Teesmouth and Cleveland Coast Special Protection Area and Ramsar Site. However, as I am dismissing the appeal on other grounds it is not necessary for me to give any further consideration to the potential impact of the development on Habitats Sites, including if the circumstances leading to a grant of permission had been present whether the proposal would have been in accordance with the Habitats Regulations.

Conclusion

48. For the above reasons, the appeal is dismissed.

Geoff Underwood

INSPECTOR

⁸ The Conservation of Habitats and Species Regulations 2017.