



Appeal Decision

Site visit made on 17 December 2024

by **P Storey BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 6 February 2025

Appeal Ref: APP/W0734/W/24/3350342

137 Southfield Road, Middlesbrough TS1 3HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Imran Khan of Prime Properties MB Ltd against the decision of Middlesbrough Council.
 - The application Ref is 23/0637/FUL.
 - The development proposed is erection of two storey front bay extension (demolition of existing two storey bay window), second floor extension to rear, garage conversion into habitable room and internal configuration from 7no. bed HMO to 12no. bed HMO.
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Decision

1. The appeal is dismissed.

Applications for Costs

2. Applications for costs have been made by the appellant against the Council, and by the Council against the appellant. These applications are the subject of separate decisions.

Preliminary Matters

3. An update to the National Planning Policy Framework (the Framework) was published on 12 December 2024. The main parties have been given the opportunity to comment on any implications for the appeal arising through the updated Framework and I have taken account of these comments in my decision.

Main Issues

4. The main issues are whether the proposed development would:
 - safeguard the living conditions of the occupiers of the adjacent property at No 139 Southfield Road in terms of outlook;
 - provide suitable living conditions for future occupiers, with specific regard to internal communal space and external amenity space; and
 - have an acceptable effect on the character and appearance of the area.

Reasons

Living conditions of neighbouring occupiers

5. The appeal site is a two-storey end-terrace property with additional roofspace accommodation. It lies on the corner of Southfield Road and Errol Street, close to

Middlesbrough town centre and the main campus of Teesside University. The surrounding area consists predominantly of terraced streets arranged in a grid pattern, many of which have been converted to flats and homes in multiple occupation (HMOs).

6. Southfield Road features rows of terraced dwellings of varying length. The appeal site is typical of the area, having undergone significant extension and alteration, including the addition of front and rear dormer windows and modifications to the fenestration and elevations. The adjoining property at No 139 Southfield Road has also been heavily extended featuring a three-storey flat-roofed rear extension that matches the depth of the appeal property's existing two-storey rear projection. No 139 includes rear-facing windows at first and second-floor, near to the boundary shared with the appeal property.
7. The Council cites Middlesbrough's Urban Design Supplementary Planning Document (the UDSPD), which provides detailed guidance for extensions and alterations to residential properties. The UDSPD advises that two-storey extensions on mid-terraced properties will rarely be acceptable due to the overbearing impact on the adjoining property's windows, where light is often already limited.
8. The proposed two-storey rear extension to the appeal property would extend significantly beyond the existing rear elevation of No 139 and sit directly on the shared boundary. This would significantly reduce the outlook from No 139's first-floor rear-facing windows, adversely affecting the living conditions of its occupants.
9. The Council also express concern regarding the impact of the proposed development on the external amenity space of No 139. This is already partially enclosed by built development, including along the entire boundary with the appeal property. Whilst the proposed development would increase the height of built development along this boundary, the rear aspect, which provides the principal source of outlook for the amenity space, would remain unaffected. As such, I do not find the development to have a harmful effect on the outlook afforded to the neighbouring amenity space.
10. To conclude on this issue, although the proposal would not generate any harm to the external amenity space of No 139 Southfield Road, the scale of the proposed two-storey rear extension would adversely affect the outlook afforded to the rear windows of No 139 Southfield Road and would harm the living conditions of its occupiers. The proposed development would therefore conflict with Policy DC1 of the Middlesbrough Local Development Framework Core Strategy, Adopted February 2008 (the CS), which seeks to ensure that the effect of development upon the surrounding environment and amenities of occupiers of nearby properties will be minimal both during and after completion. It would also conflict with the relevant provisions of the Framework, which have similar aims, and the relevant parts of the UDSPD, the aims of which have previously been set out.

Living conditions for future occupiers

11. The proposed development would increase the existing HMO by 5 bedspaces, bringing the total to 12 bedrooms, each with an en-suite shower room. The internal communal space would also be expanded, featuring a single open-plan kitchen and lounge on the ground floor. The plans provide illustrative locations for kitchen

units and seating, identifying space for prospective occupiers to cook, clean and eat separately.

12. Whilst the Council raises concerns about the adequacy of communal space for the number of occupants, the proposal would meet the relevant HMO licensing standards, a copy of which has been provided. Although HMO licensing is governed by a separate regulatory regime, I assign some weight to this compliance given the absence of specific development plan policies or supplementary guidance on HMO room sizes. Furthermore, the Council has confirmed that there are no conflicts with the Nationally Described Space Standards (NDSS). Given these considerations, I am not persuaded that the proposed internal communal space would be unacceptable.
13. Although the proposed number of occupiers would increase, the amount of external amenity space would remain unchanged. This space consists of a rear yard enclosed on three sides by the building, and on the remaining side by the boundary wall adjacent to Errol Street.
14. The Council expresses concern about the overlooking of the rear yard from adjacent bedrooms and living areas and suggests that the addition of windows in the upper floor extensions would exacerbate this. However, given the communal nature of the space, I am not convinced that overlooking by fellow residents, who also have access to this area, would cause privacy issues.
15. No development plan policies or supplementary guidance have been cited as containing specific external amenity space standards. Although the external amenity provision is not substantial, it would nevertheless provide a usable space for fresh air or as an extension to the internal communal space. The reasonably sized front garden could also supplement this. The Council provides no substantive evidence to support its concerns that the lack of amenity space would cause residents to congregate outside of the property curtilage. I therefore place limited weight on the potential effects this might have on the character of the area.
16. The Council has referenced three appeal decisions at nearby properties where the provision of external amenity space was discussed. Although I am not provided with the full details of these cases, they appear to involve proposals where the amenity space would either be reduced or eliminated entirely, which differs from the situation in the current appeal. In any event, I must determine this appeal on its own merits.
17. For the reasons given above, I conclude that the proposed development would provide suitable living conditions for future occupiers in terms of communal indoor space and external amenity space. In respect of this issue, it would therefore accord with Policy DC1 of the CS, the relevant aims of which have previously been set out.

Character and appearance

18. Although the appeal proposal includes various external works, the Council's concerns in respect of this issue focus on the enlarged dormer windows to the front and rear roof slopes and the rearmost two-storey extension.
19. The existing dormer windows at the appeal property are slightly set in from both side boundaries and have gently sloping roofs that extend to the ridge of the

building. By contrast, the front dormer windows on the two adjoining properties to the east at Nos 139 and 141 Southfield Road do not reach the ridge but span the full width of each property. No 139 also features a full-width dormer window to the rear. Other nearby properties also feature extensive and varied alterations to their roofs.

20. The existing dormer windows at the appeal site maintain a visible gap from both side boundaries, preserving a sense of separation from the neighbouring property and a semblance of the original roof profile at the west gable elevation. However, due to their scale and varied materials, they are highly conspicuous features in the streetscape.
21. The proposed development would extend the dormer windows across the full width of the property, effectively connecting them to the existing dormer windows at No 139 and reshaping the gable end facing Errol Street. Although this would result in a modest increase to the roof volume, the design and scale of the proposed dormer window extensions would not appear out of place among the prevailing varied character of the area.
22. Turning to the two-storey rear extension, it would extend to the rear boundary of the site. Although several properties within the terrace have two-storey rear extensions, none project as far back as the proposed development. However, the extension would sit notably below the three-storey extension proposed at the appeal site and the existing extension at No 139. Despite its depth, its scale would be similar to the rear projection of a recently completed development on the opposite side of Errol Street, which incorporates comparable design elements, such as first-floor windows partially integrated into the sloping roof. Additionally, the set-back position from the side boundary would mitigate its visual effect and maintain compatibility with the surrounding streetscape.
23. The Council argues that the dormer window and rear extension proposals would conflict with the UDSPD. However, among other provisions, this advises that developments must understand and sit comfortably within their proposed context. Given the existing extensive alterations to both the appeal property and neighbouring properties that contribute to the site's overall context, and the lack of harm that I have identified, I am not convinced the proposal would conflict with the aims of the UDSPD in respect of this issue.
24. I acknowledge the main parties' statements that the adjacent development across Errol Street may not have been built in accordance with the approved plans. However, I have not been provided with full details of these discrepancies. In any event, the Council's evidence includes an excerpt of the approved elevations, which closely resemble the development I observed on site. Therefore, my site observations remain valid.
25. Notwithstanding my previous conclusions relating to the living conditions of neighbouring occupiers, I conclude that the proposed development would not harm the character or appearance of the area. In respect of this issue, it would accord with Policies CS5 and DC1 of the CS, which together seek to secure a high standard of design for all development that is integrated with the immediate and wider context and has a positive relationship with the surrounding area. It would also accord with the relevant provisions of the Framework, which have similar aims, and the UDSPD, the aims of which have previously been set out.

Other Matters

26. The proposed development would provide additional residential accommodation in a suitable and sustainable location, close to town centre amenities and transport links, while making efficient use of the land. Although these benefits align with the overarching objectives of the Framework, the modest scale of the development limits their weight, particularly when balanced against the harm previously identified.
27. The appeal site falls within the catchment of the Teesmouth and Cleveland Coast Special Protection Area, a designated European Site vulnerable to the effects of nutrients released from residential developments within its catchment. The proposed development would likely increase the number of people living within this catchment. In combination with other plans and projects, the development is therefore likely to have a significant effect on the integrity of the European Site through an increased nutrient load.
28. Under the Conservation of Habitats and Species Regulations 2017 (as amended) where any such effects cannot be ruled out, an appropriate assessment (AA) must be undertaken. This is required to determine whether an adverse effect on the integrity of the European Site can be ruled out beyond all reasonable scientific doubt. If such effects cannot be ruled out, the AA should consider whether these effects can be addressed through mitigation.
29. The available evidence suggests that the main parties and Natural England concurred that the proposed development would have a likely significant effect on the qualifying features of the European Site. To mitigate these effects, the appellant has submitted evidence of attempts to obtain credits through Natural England's Nutrient Mitigation Scheme (NMS) for the River Tees Catchment Area. However, due to the limited availability of credits, the appellant was unable to secure them. No alternative form of mitigation has been advanced at this stage.
30. Had I been minded to allow the appeal it would have been necessary for me, as the competent authority, to undertake an AA to determine the effects on the European Site. However, since I am dismissing the appeal for other reasons, this assessment has not been undertaken.

Conclusion

31. Although I have found no harm in respect of the living conditions of future occupiers or the character and appearance of the area, the proposed development would harm the living conditions of the occupiers of the neighbouring property at No 139 Southfield Road. Accordingly, it would conflict with the development plan as a whole. There are no other considerations, including the provisions of the Framework, to lead me to a decision other than in accordance with the plan. I therefore conclude that the appeal should be dismissed.

P Storey

INSPECTOR