



Appeal Decision

Site visit made on 22 January 2025

by **J D Clark BA (Hons) DpTRP MCD DMS MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10 February 2025

Appeal Ref: APP/P4415/W/24/3353427

Café Sport, 11 Station Street, Swinton, Rotherham S64 8PZ

- 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 M Armstrong of Lexgreen Services Ltd against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref is RB2024/0330.
 - The development proposed is alterations to roof and the construction of an additional floor to accommodate new flats above existing floors.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised version of the National Planning Policy Framework (the Framework) was published in December 2024. In the interest of natural justice and to ensure neither of the main parties were prejudiced by this matter, I consulted both parties on the changes to the Framework and have received comments which I have taken into account in my determination of the appeal. Any reference to the Framework in this decision is to the most recent version and its new paragraph numbers.
3. The appeal site is within the Swinton Conservation Area. I agree with the parties that the existing building lacks any significant architectural features and contributes little to the significance of the Conservation Area. Nevertheless, I have had regard to the statutory duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) which requires that special attention be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

Main Issue

4. The main issue is the effect of the proposal on the living conditions of the occupiers of 4 Robin Hood Court by reason of overshadowing and outlook.

Reasons

5. The appeal site comprises a large vacant building known as Café Sport. It is within the built-up area with other buildings, including Robin Hood Court, to the west and an open area to the east leading to a park to the south. A previous application for prior approval was approved to convert the building to 12 flats¹. The proposal now

¹ LPA Ref: RB2023/0024.

is to raise the height of the roof and add a second floor. This would provide an additional five flats.

6. Robin Hood Court comprises one bedroom flats on the ground and first floor. There are small garden areas between the flats and boundary fencing separating them from a narrow passageway between the fence and Café Sport. Due to the spacing between Robin Hood Court and the scale and massing of the appeal building, the latter appears large and imposing in very close proximity to the flats at Robin Hood Court.
7. The appellant has submitted a daylight and sunlight assessment to provide technical support for the proposal in terms of the impact of the extra height proposed to Café Sport on the rear windows of Robin Hood Court. This identifies a bedroom window to flat 4 (W6) as experiencing a loss of light of 1.8%. The guidelines suggested by the British Research Establishment (BRE) indicate that a reduction in light of up to 20% is acceptable. The proposed development would therefore fall within these acceptable limits. The affected room would be a bedroom and the appellant states that as this would only be occupied at night, the perceived impact would be almost non-existent. I also note the Council's 25 and 45 degree rules as set out as guidance in the South Yorkshire Residential Design Guide (2011).
8. The technical analysis indicates that the difference between the current position and that after the development proceeded would be small. However, the height of the appeal building and its proximity already limits the amount of light to the ground floor window and the garden area. Reducing it further, even by a small amount, would have a negative impact on the living conditions of the occupiers of No 4.
9. Furthermore, although the affected window is a bedroom that may not be a room where the occupiers spend a great deal of time, other than whilst asleep, the existing outlook is poor in terms of the large massing of brickwork that makes up the facing elevation of the appeal building. Increasing its height would make it appear even more oppressive especially as it cannot be assumed that the bedroom is less important to its occupiers than other rooms in the flat. I accept that no objections have been received from the current occupiers but the lack of objection is not the same as finding the proposed arrangement acceptable.
10. The proposal would have a harmful effect on the living conditions of the occupiers of 4 Robin Hood Court by reason of overshadowing and outlook. This would be contrary to Local Plan² Policy SP 55 which, amongst other things seeks to ensure that the design and layout of buildings enables adjoining land or properties to be protected from overshadowing. It would also be inconsistent with paragraph 131 of the Framework in terms of achieving sustainable, well designed places that creates better places to live.

Other Matters

11. I am satisfied that matters relating to highway safety and parking, amenity space, bin storage and refuse collection and the quality of the accommodation would not conflict with development plan policies.

² Rotherham Metropolitan Borough Council – Rotherham Local Plan Sites and Policies, Adopted June 2018.

12. I have taken into account the benefits of the scheme including the provision of additional homes in a sustainable location and the benefits of bringing a vacant building back into use, especially given its location within the Conservation Area. Section 11 of the Framework supports the effective use of land, especially that in sustainable locations. It also supports opportunities to use the airspace above existing residential or commercial premises for new homes. Although no specific concerns have been raised about the design of the proposal, other than in relation to my main issue, the previously approved scheme would achieve these benefits albeit for a lesser, but still significant, number of homes. There is no suggestion by either of the main parties that there is a shortfall in the supply of land for housing in the Borough. Therefore, these matters do not outweigh the harm I have identified.

Conclusion

13. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. Consequently, the appeal should be dismissed.

J D Clark

INSPECTOR