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## Appeal Decision

Site visit made on 25 February 2025

**by M J Francis BA (Hons) MA MSc MCIfA**

an Inspector appointed by the Secretary of State

**Decision date: 4 July 2025**

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**Appeal Ref: APP/K0750/W/24/3350184**

**20 Brentnall Street, Middlesbrough TS1 5AP**

- 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 Howells of Alta Vista Global Ltd against the decision of Middlesbrough Development Corporation.
  - The application Ref is 23/5019/MAJ.
  - The development proposed is conversion of existing vacant building to form 27 residential apartments.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The appellant's supporting statement<sup>1</sup> confirms that the proposed development application was originally for 27 apartments and was later amended to 22 apartments.
3. Whilst the application reference on the appeal form is 23/5019/FUL, it has been confirmed by the appellants that this should be 23/5019/MAJ. This is as shown on the decision notice and used in the banner heading above. Although the decision notice was not dated, it has been confirmed that the application was refused on 22 February 2024.
4. The application was submitted to Middlesbrough Council on 9 October 2020. On 1 June 2023, Middlesbrough Development Corporation (MDC), who determined the application, became the local planning authority for parts of the district, including some of the town centre of Middlesbrough, where the appeal site is located.
5. A nutrient credit certificate, with a start date of 11 October 2024, was submitted during the appeal to satisfy the second reason for refusal. The timetable for applying for credits is set by Natural England and is an agreed method of mitigation. As it would not result in the Council being unfairly treated, I have accepted the certificate.
6. The National Planning Policy Framework (the Framework) was revised in December 2024 and the main parties have been consulted on the implications of the revised Framework's publication on the appeal.

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<sup>1</sup> June 2021

## Main Issues

7. The main issues are:

- whether the proposed development would provide satisfactory living conditions for future occupiers, with regards to daylight and sunlight, outlook, privacy and waste disposal; and
- the effect of the proposal on the integrity of a European site.

## Reasons

### *Background*

8. The proposal is located on a corner site between Yew Street, Brentnall Street and Rose Street, centrally located in the town. It is within a commercial area with a multi-storey car park and business premises nearby.
9. The existing building is mainly single storey, constructed in a red brick, although it has some rooms within the pitched roofs. It has a courtyard in the centre and was built as a public house and leisure venue. There are some areas of soft landscaping along Brentnall Street and Rose Street. At the time of my visit, the building was operating as a church.

### *Living conditions*

10. Each apartment would have one bedroom with either an ensuite or a bathroom, and an open plan kitchen/dining area and lounge. The apartments would be accessed either from Brentnall Street or Yew Street. Most of the apartments would have bedrooms and living rooms with windows onto the central courtyard, or defensible space such as landscaped areas that would be within the proposed development. However, apartments 1, 2, 3 and 7 would have their only bedroom window directly overlooking Yew Street. The supporting text to the Council's Interim Policy on the Conversion and Sub-Division of Buildings for Residential Uses, 2019, suggests this should be avoided. However, whilst Yew Street is relatively quiet, as there would be no defensible space it would enable passers-by to see into the bedrooms of these flats which would compromise the privacy of future occupiers.
11. The proposed development would remove parts of the existing roof around the courtyard to increase daylight and sunlight to this internal area, which is shown on the proposed ground floor plan as a large, open space. Instead, the proposed roof plan indicates that large parts of the courtyard would be covered by an overhanging roof which would limit the openness of this area. Although the appellants contend that only about four of the apartments on the ground floor would be affected, and in some, it would only affect a bedroom window, this would reduce daylight and sunlight into the apartments. Additionally, the windows in the roof slope of the first-floor apartments would be long and narrow which would reduce light levels.
12. A daylight and sunlight report has not been provided. Moreover, there is limited substantive evidence to demonstrate that there would only be a limited effect on

some of the occupiers of the flats, as there are no elevations and sections of the courtyard area, or details of the windows on the first-floor to establish this.

13. Whilst the site is in a relatively dense urban area, the outlook for the occupiers onto Brentnall Street, Yew Street and Rose Street would be acceptable. However, the central courtyard has an internal staircase to the 1<sup>st</sup> floor. This would be close to several apartments whose windows would overlook this feature. Without substantive evidence in the form of elevations, sections or visuals as to the outlook from both these and the other apartments sited around the central courtyard, it has not been demonstrated whether the occupiers of the apartments would have an acceptable outlook.
14. The proposed ground floor plan shows a car parking space adjacent to apartment 11, which the appellants state would be replaced by landscaping. However, even if it was retained, it would be next to a bathroom which would have opaque glazing and so it would not be harmful to the occupiers of apartment 11.
15. Refuse storage is shown in the central courtyard which is only of limited capacity and is located close to some apartments. The main facility in the north-west corner of the site would require residents to exit the building complex and access the storage facility from Rose Street. This would not be conveniently located for most properties and would not provide adequate living standards for future occupiers. Moreover, it has not been demonstrated that this could be addressed by a suitably worded planning condition. Therefore, the proposal would not provide adequate measures for waste disposal.
16. I therefore conclude that the proposed development would not provide satisfactory living conditions for future occupiers with regards to daylight and sunlight, outlook, privacy and waste disposal. It would not comply with Policies CS5(c) and DC1(c) of the Middlesbrough Local Development Framework Core Strategy, 2008, which together requires a high standard of design for all development, and the amenities of occupiers of nearby properties to not be harmed.

#### *Effect on a European site*

17. The site is within the catchment of the Teesmouth and Cleveland Coast Special Protection Area (SPA) c.1km to the east, and Ramsar site located c.2km to the north-east. I must therefore have regard to the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations). These require that, where a project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects), the competent authority must make an appropriate assessment of the project's implications in view of the relevant site's conservation objectives.
18. The Council carried out a Habitat Regulation Assessment. As the proposal would likely affect nutrient neutrality, the appellants have provided a nutrient budget calculation which provides the anticipated nutrient load that must be offset. Mitigation measures are proposed through the purchase of credits from the Natural England mitigation scheme. The appellants have submitted a provisional nutrient credit certificate from Natural England. Once the full nutrient credit fee of £52,947.00 has been paid and signed off by Natural England, the nutrient credits would have been reserved for the appellants.

19. Notwithstanding this, as the competent authority in the context of this appeal, it is my duty to make an appropriate assessment. However, as I am dismissing the appeal on other grounds, I have not carried this out and it is not necessary for me to consider this matter further.

### **Planning Balance**

20. There is no dispute between the main parties that the re-use of the existing building for apartments would be acceptable. The site is close to a variety of facilities and services, and the design would not harm the character and appearance of the area. Additionally, the appellants have provided a provisional nutrient credit certificate. Whilst the proposal would provide housing within the town centre, I have not been presented with any evidence to suggest that there is an overall shortfall in the delivery of housing within the area. Moreover, all these matters do not outweigh the harm that I have found with regards to the proposal not providing satisfactory living conditions for future occupiers.

### **Conclusion**

21. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations, including the Framework, that outweigh the identified harm and that warrant a decision other than in accordance with the development plan.
22. For the reasons given above, I conclude that the appeal should be dismissed.

*M J Francis*

INSPECTOR