



Appeal Decision

Site visit made on 15 July 2025

by A Caines BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24th July 2025

Appeal Ref: APP/W0734/W/25/3365372

66 Southfield Road, Middlesbrough TS13EU

- 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 Ifty Khalil against the decision of Middlesbrough Council.
 - The application Ref is 24/0395/COU.
 - The development proposed is described as conversion of an existing two-storey, 4-bedroom, terraced house into 2 No. two-bedroom apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The Council determined the application based on amended plans. This appeal has been determined on the same basis.

Main Issues

3. The main issues are:
 - Whether the development would provide acceptable living conditions for its occupiers, particularly in relation to outdoor space, refuse storage, and access arrangements.
 - The effect on the Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site, with regard to nutrient neutrality.

Reasons

Living conditions

4. It is accepted that both flats exceed the Nationally Described Space Standards internally, and that revisions have been made to reduce the potential for internal noise conflict.
5. However, the external arrangements remain unsatisfactory. The rear yard is significantly constrained by existing extensions, leaving limited usable space. Moreover, only the ground floor flat would have direct access to this area. Occupants of the upper flat (Flat 2) would be required to exit the front door and walk approximately 40 metres around the corner to a side gate on Newlands Road to reach the yard. This arrangement is inconvenient and impractical, particularly for routine tasks such as taking out refuse, drying clothes, or accessing the proposed cycle store. Furthermore, the plans indicate that the refuse bins would be stored in

the narrow alleyway, which would obstruct access to the rest of the yard and cycle store for Flat 2. There is little scope to relocate these facilities due to the tight layout, presence of ground floor windows, and the need to preserve off-street parking at the front. Placing bin or cycle storage at the front could also harm the street scene.

6. It has been suggested that the existing flat roof at the rear could serve as alternative amenity space for Flat 2. However, no details have been provided regarding the safety barriers or privacy screening that would be necessary. Nor would it address issues relating to bin and cycle storage for Flat 2. These are not minor matters that can be left to planning conditions, as they could have significant implications for the appearance of the property and the privacy of neighbouring residents.
7. While no objections were received from consultees or neighbours, planning decisions must ensure the provision of a high standard of living/amenity, regardless of public response.
8. The proposal therefore fails to provide adequate and practical outdoor amenity space, refuse storage, and cycle storage for both units. This would result in substandard living conditions for the occupiers, contrary to criterion (e) of the Council's Interim Policy on Residential Conversions and Paragraph 135 (f) of the National Planning Policy Framework (the Framework), which seek a high standard of amenity for existing and future users, including through adequate provision of amenity space and cycle and bin storage.

Nutrient Neutrality

9. The site lies within the catchment of the Teesmouth and Cleveland Coast SPA, which is protected under the Conservation of Habitats and Species Regulations 2017. Development proposals must demonstrate that they will not adversely affect the integrity of the designated European site, including through increased nutrient loading.
10. The appellant submitted a nutrient budget indicating an intention to achieve nutrient neutrality. However, no mitigation strategy or mechanism to secure mitigation was provided. As such, the Council, acting as competent authority, was unable to complete an Appropriate Assessment under the Habitats Regulations to rule out likely significant effects.
11. The appellant states that they were actively pursuing the purchase of nutrient credits through the national scheme and that the Council did not allow sufficient time to complete the process. They also express willingness to accept a condition requiring mitigation to be secured prior to commencement or occupation.
12. However, the absence of secured mitigation at the time of determination is a critical issue. The Habitats Regulations require certainty that mitigation will be secured before planning permission is granted. Planning conditions cannot be used to defer this requirement.
13. Therefore, in the absence of secured mitigation, the proposal is contrary to the Habitats Regulations, Section 15 of the Framework, and Policies CS4(j) and DC1(f) of the Middlesbrough Core Strategy (2008), which require protection of designated ecological sites.

Planning Balance

14. The appellant highlights that the area is particularly sought after by students and single occupants, and that the proposal would contribute to addressing local housing need. The site is in an accessible location, and the development would make efficient use of previously developed land. These are positive considerations that weigh in favour of the proposal.
15. Paragraph 11 of the Framework sets out the presumption in favour of sustainable development. However, footnote 7 clarifies that this presumption does not apply where development is likely to have a significant effect on a habitats site unless an Appropriate Assessment has concluded that the proposal will not adversely affect the integrity of the site. In this case, such an assessment cannot be completed due to the absence of secured mitigation.
16. Even if the presumption did apply, the adverse impacts of the development in terms of the substandard living conditions for future occupiers and the unresolved harm to a protected ecological site, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.

Conclusion

17. The proposal conflicts with statutory requirements, the Framework, and the development plan when read as a whole. Accordingly, the appeal is dismissed.

A Caines

INSPECTOR