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# Appeal Decision

Site visit made on 18 December 2018

**by Graeme Robbie BA(Hons) BPI MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 December 2018**

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**Appeal Ref: APP/W0734/W/18/3194179**  
**1 Gretton Avenue, Middlesbrough TS4 3QT**

- 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 We Buy Any House against the decision of Middlesbrough Borough Council.
  - The application Ref 17/0252/FUL, dated 10 April 2017, was refused by notice dated 9 October 2017.
  - The development proposed is conversion of existing dwelling into 2/no flats and erection of new 1 bed apartment to side garden.
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## Decision

1. The appeal is allowed and planning permission is granted for conversion of existing dwelling into 2/no flats and erection of new 1 bed apartment to side garden at 1 Gretton Avenue, Middlesbrough TS4 3QT in accordance with the terms of the application, Ref 17/0252/FUL, dated 10 April 2017, subject to the conditions set out in the attached Schedule of Conditions.

## Procedural Matters

2. Since the determination of the application by the Council but before the submission of the appeal, the Council adopted an 'Interim Policy on Conversions of Residential Properties' (IP). The Council have confirmed that the policy is to be used by the Council as a material consideration in the determination of planning applications until such time as the revised Local Plan is adopted. The appellant has had the opportunity to comment on the implications of the IP to their case at the Final Comments (FC) stage. Whilst no FC have been submitted I am satisfied that no party's interests would be prejudiced by my taking the IP into consideration. I have determined the appeal accordingly.
3. With regard to a revised Local Plan, I have not been advised of its status or progress through the plan preparation stage. However, I note that the Council do not rely upon it in their Statement of Case (SofC) and no further references are made to it. I have determined the appeal accordingly.
4. It is stated in the Council's reason for refusal that the proposal would be 'contrary to both the Local Development Plan and the National Planning Policy Framework', but did refer to specific development plan policies. However, Core Strategy policies CS5 and DC1 are introduced in the Council's SofC and the appellant had the opportunity at the FC stage to comment on their relevance to the appeal proposal. I am satisfied of the relevance of these CS policies and have determined the appeal accordingly.

5. Reference is also made in the reason for refusal and the Council's subsequent SofC to paragraphs 17, 58 and 64 of the National Planning Policy Framework (the Framework). Since the Council took its decision a revised version of the Framework was published and the equivalent provisions of paragraphs 58<sup>1</sup> and 64<sup>2</sup> can be found in paragraphs 127 and 129 of the revised Framework, respectively.

### **Main Issues**

6. The main issues are:
- The effect of the proposed development on the character of the area; and
  - Whether, having regard to the development plan and material considerations, the proposed development would provide adequate living conditions for future occupiers.

### **Reasons**

#### *Character*

7. The appeal property is a two storey end of terrace property situated on the inside of the junction of Gretton Avenue and Broadwell Road. At present, the property is a three bedroom dwelling, with lounge and kitchen at ground floor and three bedrooms and a bathroom at first floor. To the rear is a small private garden, enclosed on all sides by the rear elevation of the property, outbuildings, a detached garage and a timber panel fence. Another, lower, fence encloses the side and front garden.
8. The sub-division of the existing dwelling into two flats and the construction of an extension to the end of the terrace to create a third may be likely to result in a different nature of comings and goings to that generated by a three bedroomed dwelling. However, as the units would be small 1-bedroomed flats, I am not persuaded, nor has it been demonstrated, that the nature and level of pedestrian movements would be either material, or harmful to the character of the area.
9. Nor am I persuaded that vehicle movements and vehicle parking would be of a nature or level that would cause harm to the character of the area. I saw during the course of my visit to the site that Broadwell Road was a moderately busy residential estate road and bus route. The appeal site lies adjacent to Broadwell Road, with direct access from it to a driveway and garage. They would be retained, with the addition of two further parking spaces, whilst the wide hard-surfaced verge of Gretton Avenue already provides car parking for residents of that street.
10. The Council accept that the level of parking provision proposed would be adequate for the quantum of development. The movements associated with the proposal, both vehicular and pedestrian, would not in my judgement be materially different to those of existing properties in the surrounding area. The sub-division of the existing dwelling would be imperceptible from outside the building, whilst the proposed extension at the side to create a third flat which

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<sup>1</sup> Development should, inter alia 'function well and add to the overall quality of the area, not just for the short term but for the lifetime of the development'

<sup>2</sup> 'Permission should be refused for development of poor design that fails to take opportunities available for improving the character and quality of an area and the way it functions'

the Council considers would appear as a natural extension to the terrace. I agree.

11. The proposal would result in the loss of a small family home. Conversely, it would provide two one bedroomed flats and a one bedroom apartment over two storeys. The Council acknowledge that the proposal would contribute to housing choice and towards a balanced, sustainable housing stock in an area where small family housing would continue to prevail. The Council's SofC refers to a number of conversions of small properties having taken place within the Borough and that these are becoming a more prolific form of application. However, other than a previous appeal<sup>3</sup> proposal that I have been referred to, and two other appeal cases<sup>4</sup> of which I am aware, I have not been presented with any evidence to persuade me that such proposals are indeed prolific, or that they would materially or harmfully alter the character of Gretton Avenue or the wider area. In any event, I have considered the proposal on its merits.
12. Although the Council did not refer to specific development plan policies in their reason for refusal, Core Strategy policies CS5 and DC1 are referred to in their Statement of Case. Together, they require proposals to demonstrate a high quality of design in terms of layout, form and contribution to the character and appearance of the area. For the reasons I have set out, the proposal would not cause material harm to the character of Gretton Road, surrounding streets or the wider area.

#### *Living conditions*

13. The refusal reason goes on to state that as a small property type the proposal would not provide a good level of amenity for future occupants, or function well. It does not, however, elaborate upon what amenities would be affected, or in what way the proposal would fall short.
14. The Council's SofC refers to the recently adopted IP and the 'Technical housing standards – nationally described space standard' (NDSS), stating that as none of the three units would meet the NDSS internal space standards the proposal would not provide a good standard of amenity for future occupants. I have also been referred to a recent appeal decision<sup>5</sup> nearby which considered the weight to be given to the IP and the NDSS.
15. Although the Council have adopted the IP, and are clear that it is a material consideration in the determination of the application, it does not form part of the statutory development plan in force. Whilst the development plan policies that have been referred to, albeit belatedly, make broad reference to high quality design in terms of layout, form and contribution to character and appearance, they neither set out internal space standards for residential layouts nor make reference to the NDSS.
16. The Written Ministerial Statement (WMS) of 25 March 2015 and Planning Practice Guidance<sup>6</sup> (the Guidance) is quite clear that the application of the standards set out in the NDSS should only be done so by reference thereto in the Local Plan. There is no relevant current development plan policy and, as a consequence, neither the IP nor the NDSS are material considerations to which

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<sup>3</sup> APP/W0734/18/3193781

<sup>4</sup> APP/W0734/18/3194177 and APP/W0734/18/3199268

<sup>5</sup> APP/W0734/18/3193781

<sup>6</sup> Paragraph: 018 – Reference ID: 56-018-20150327

I am able to give any significant weight. In reaching this conclusion I am also mindful of the conclusion reached by a colleague Inspector in the appeal decision referred to by the Council.

### **Other Matters**

17. The Council did not object to the proposal in terms of its parking provision or the appearance of the proposed extension to No. 1 at the end of the terrace. I have no reason to disagree on either ground. All three units would have either direct access (in the case of the ground floor flat and two storey apartment) or indirect access (the upper floor flat via a shared alleyway) to the rear and side garden where there would be sufficient space for appropriate cycle and refuse storage. In the absence of such details before me, a condition could secure such provision.

### **Conditions**

18. I have considered the Council's suggested conditions in light of the Framework and the Guidance. In addition to a time limit condition and an approved plans condition, which are necessary in order to provide certainty, I have also imposed a materials condition to ensure the use of matching materials in the interests of character and appearance. A condition requiring details of refuse storage and cycle parking is also necessary in the interests of character and appearance.

### **Conclusion**

19. For the reasons set out above, and having considered all other matters raised, I conclude that the appeal should be allowed.

*Graeme Robbie*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: J008-SLP; J008-P01-002; J008-P002-001; J008-P002-002 and J008-P003-001.
- 3) The materials to be used in the construction of the external surfaces of the development hereby permitted shall match those used in the existing building.
- 4) Prior to the first occupation of the development hereby permitted a scheme for the provision of refuse storage and cycle parking shall be submitted to and approved in writing by the local planning authority. The scheme shall be implemented as agreed prior to the first occupation of the development hereby permitted and shall be retained as such thereafter.