



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: 17 January 2019

Appeal Ref: APP/W0734/W/18/3199268
79 Broadwell Road, Middlesbrough TS4 3NL

- 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 17/0251/FUL, dated 10 April 2017, was refused by notice dated 20 October 2017.
 - The development proposed was described as *'conversion of single dwelling house into 2 flats with additional apartment to side in new erection'*.
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Decision

1. The appeal is dismissed insofar as it relates to the erection of 1no. dwelling. The appeal is allowed insofar as it relates to the conversion of the existing dwelling house into 2no self-contained flats and planning permission is granted for the conversion of existing dwelling house into 2no self-contained flats at 79 Broadwell Road, Middlesbrough TS4 3NL in accordance with the terms of the application, Ref 17/0251/FUL, dated 10 April 2017, so far as relevant to that part of the development hereby permitted and subject to the following 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: J038-SLP; J038-P002-001; J038-P001-001 only insofar as it relates to the conversion of the existing dwelling house into 2no. self-contained flats; and J038-P002-002 only insofar as it relates to the conversion of the existing dwelling house into 2no. self-contained flats.
 - 3) Within three months of the date of this decision, the details of provision for the storage of refuse and recycling, and the storage of cycles, shall have been submitted to, and approved in writing by, the local planning authority and the details therein implemented in complete accordance with the agreed details, which shall thereafter be retained as such in perpetuity.
 - 4) Within three months of the date of this decision, the details of the means of enclosure and sub-division of the rear garden space shall have been submitted to, and approved in writing by, the local planning authority, and the details therein implemented in complete accordance with the agreed details, which shall thereafter be retained as such in perpetuity.

Procedural Matters

2. I have adopted the development description set out on the Council's decision notice and in subsequent submissions, in my decision above, as it is a usefully more concise and accurate description of the proposal.
3. At the time of my visit to the site the appeal property was not occupied as a single dwelling but had, instead, been converted into two separate, self-contained flats; one at ground floor level and one at first floor level. It was also clear during my visit to the site that the layout of the first floor flat differed from that shown on either the 'Existing Plans'¹ or 'Proposed Plans'² drawings; specifically, I saw there to be a further flight of stairs located within the 'bedroom' shown on the 'Proposed Plans' which provided access to a room in the roofspace. For the avoidance of doubt therefore, I have determined the appeal on the basis of the submitted plans.
4. 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 has 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.
5. Reference is made in the Council's Statement of Case (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 has been published and the equivalent provisions of paragraphs 58³ and 64⁴ can be found in paragraphs 127 and 129 of the revised Framework, respectively.
6. For the reasons that follow, I find the proposed conversion of the existing dwelling house into 2no self-contained flats to be acceptable and is clearly severable both physically and functionally from the proposed erection of 1no. dwelling. Therefore, I intend to issue a split decision in this case and grant planning permission for the conversion of the existing dwelling house into 2no self-contained flats.

Main Issues

7. The main issues are:
 - The effect of the proposed development on the character and appearance of the host building and the surrounding area;
 - Whether the proposed development would provide adequate living conditions for future occupiers, with particular regard to outdoor amenity space and storage of refuse, garden waste and recycling bins; and

¹ Dwg No: J038-P003-001

² Dwg No: J038-P002-002

³ 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'

⁴ '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 effect of the proposed development on highway safety, with particular regard to parking.

Reasons

Character and appearance

8. Broadwell Road and the streets surrounding it are predominantly residential in character, and feature a mix of semi-detached and terraced dwellings. The appeal property, a semi-detached dwelling, lies within a row of similar semi-detached dwellings which sit above the road level of Broadwell Road and behind small front gardens. Opposite, lie rows of terraced properties.
9. Although unexceptional in architectural and visual terms, the pairs of semi-detached properties nonetheless display a pleasing sense of proportion and symmetry about them. The building line along the row's façade is broadly consistent, as are the spaces between them, which allow driveway access to garages and rear gardens. Together, the consistency of building line and space between the pairs of properties combines to create a unified rhythm and spacing along the street that offsets the more closely grouped terraces opposite and elsewhere.
10. The conversion of the existing dwelling house into 2no self-contained flats would be contained within the existing building envelope of the host property. As a consequence, it would be largely indistinguishable from those properties to either side, or elsewhere along the row. Both flats would be small and I am not persuaded, nor has it been demonstrated, that the nature or level of pedestrian movements associated with its occupation in this manner would be either materially different to that reasonably associated with a 3-bedroomed single dwelling, or be harmful to the character of the area.
11. The proposal would result in the loss of a small family home. Conversely, the sub-division element of the proposal would provide two one bedroomed flats. The Council acknowledge that the proposal would contribute to housing choice by providing a form of accommodation (one-bedroom properties) identified as a requirement in the Council's Strategic Housing Market Assessment. Resulting in a net increase in dwelling units, the proposal would contribute, albeit at a limited level, to boosting the supply of housing⁵.
12. The Council's Statement of Case (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 appeal⁶ proposal that I have been referred to, and two other appeal cases⁷ of which I am aware, I have not been presented with any evidence to persuade me that such proposals are prolific, or that they would materially or harmfully alter the character of Broadwell Road or the wider area. In any event, I have considered the proposal on its merits and I am satisfied that this element of the proposal would not be in conflict with policies DC1 (b) and (c) or CS5 (c) of the Middlesbrough Local Development Framework : Core Strategy (CS).
13. Turning to the remainder of the proposed development, the additional dwelling at the side of No. 79 would take the form and appearance of an extension to

⁵ Paragraph 59, National Planning Policy Framework

⁶ APP/W0734/18/3193781

⁷ APP/W0734/18/3194177 and APP/W0734/18/31994179

the host property. It would maintain existing building lines at front and rear, and roof levels, and would occupy the entirety of the space at the side of the property, between the existing flank elevation and the step down to the driveway of No. 77.

14. The proposal would unbalance Nos. 79 and 81 as a semi-detached pair, and the broad symmetry that is evident here would be lost and that along the row would be eroded. Furthermore, by occupying the entire space at the side of No. 79, the proposal would erode the consistent rhythm and spacing evident between the properties and along the row. This, I conclude, would be harmful to the character and appearance of the area.
15. The scale and width of the proposed new-build dwelling would occupy the remaining space at the side of No. 79. Although the additional dwelling would have access to the rear garden, and the ground floor flat could have access (albeit the plans do not indicate as such), this would not be possible externally because of the scale and width of the dwelling, and its position relative to the boundary with No. 77.
16. Given the relatively small front gardens and their lack of level space for storage of refuse and recycling bins, the absence of external access from front to rear is likely to mean that bins would be stored at the front of the property. A proliferation of bins in this location, and in these circumstances, would clearly distinguish the property as deviating from the prevailing pattern of occupation and would be harmful to the character of the property, and the surrounding area. Although the conversion of the existing dwelling house into two self-contained flats of the dwelling would result in an increase in refuse and recycling bins, without the construction of an additional dwelling at the side, access would be retained to the side and rear of the building. Thus, with regard to the erection of the dwelling this element of the proposal would be contrary to CS policy DC1(b) and CS policy CS5(c).

Living conditions

17. In isolation, the sub-division and conversion of the existing dwelling into ground and first floor flats would retain external access to the rear garden around the side of the building. Although not indicated on the submitted plans, a suitably worded condition could ensure submission of details regarding sub-division of, and access to, the rear garden area so as to ensure that occupiers of the ground floor flat and upper floor flat have access to outdoor amenity space. So too, would such an approach allow appropriate provision to be made for refuse and cycle storage. With this in mind, I conclude that this element of the proposal would not be in conflict with CS policies CS5 or DC1.
18. The two flats would be small with limited amounts of internal floor space. The Council state that as a consequence, the living accommodation provided would fail to meet the standards set out in the Government's 'Technical housing standards – nationally described space standard' (NDSS) and the Council's recently adopted IP. I have also been referred to a recent appeal decision⁸ nearby which considered the weight to be given to the IP and the NDSS.
19. 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

⁸ APP/W0734/18/3193781

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.

20. The Written Ministerial Statement (WMS) of 25 March 2015 and Planning Practice Guidance⁹ (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 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.
21. The construction of the two storey dwelling at the flank of No. 79 would prevent external access to the rear garden area. However, as I have concluded that a split decision is appropriate in this instance this would not arise in this instance and I have not considered this matter further. Nor, for the reasons set out above, has the matter of the floor area within this element of the proposal been determinative in this instance.

Highway safety

22. The area is characterised by a mix of off-street and on-street car parking. I also saw that pavement parking is commonplace, aided by wide pavements and paved verges. At present, the existing property benefits from a driveway at the front and side of the building. The creation of an additional dwelling attached to the side of No. 79 would entail the loss of a length of driveway and render the remaining element at the front of the property, largely unusable except for the shortest of vehicles.
23. However, having regard to my conclusions in respect of character and appearance, this length of driveway would not be lost. Moreover, in taking this approach, the proposal would amount to a net increase of only one dwelling unit and a reduction in accommodation from the three bedroom dwelling shown on the submitted plans to two one-bedroom flats. Whilst I have noted the Council's concerns regarding parking pressure in the surrounding area, I am satisfied that the proposal would not materially affect parking pressures or prejudice highway safety.

Conditions

24. I have considered the Council's suggested conditions in light of the Framework and Planning Practice Guidance. I agree that a time limit condition is necessary in order to provide certainty. A plans condition, insofar as it is applicable to the conversion and sub-division of the existing dwelling into two flats, is also necessary in order to provide certainty. In this respect, conditions regarding the details of refuse and cycle storage, and access to, and sub-division of, the rear garden area are also necessary in the interests of character and appearance and living conditions.

⁹ Paragraph: 018 – Reference ID: 56-018-20150327

Conclusion

25. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be allowed insofar as it relates to the conversion of the existing dwelling house into 2no self-contained flats and dismissed insofar as it relates to the erection of 1no dwelling.

Graeme Robbie

INSPECTOR