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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: 17 January 2019**

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### **Appeal Ref: APP/W0734/W/18/3194177 11 Islington Walk, Middlesbrough TS4 3RB**

- 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 17/0249/FUL, dated 10 April 2017, was refused by notice dated 6 November 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 11 Islington Walk, Middlesbrough TS4 3RB in accordance with the terms of the application, Ref 17/0249/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, I am aware from other appeals<sup>1</sup> that I am dealing with within the Borough that the Council have adopted an 'Interim Policy on Conversions of Residential Properties' (IP). From those, I am aware that the Council have confirmed that the IP 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. 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.

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<sup>1</sup> APP/W0734/18/3194179 and APP/W0734/18/3199268

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>2</sup> and 64<sup>3</sup> can be found in paragraphs 127 and 129 of the revised Framework, respectively.
6. I saw during my visit to the site that the appeal property had already been sub-divided to create a ground floor and first floor flat. It was also evident that the internal layout of the ground floor flat differed slightly from that shown on the submitted plans. For the avoidance of doubt, I have considered the appeal on the basis of the submitted plans.

### **Main Issues**

7. 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*

8. The appeal property is a two storey end of terrace property that fronts on to Islington Walk, the turning head of the Grantham Green cul-de-sac to the side. The existing property had, at the time of my visit to the site, already been sub-divided and ground and first floor flats created, and subsequently occupied. The garden plot around the building is currently heavily enclosed by an evergreen hedge of considerable height, behind which the front and side garden is separated from the rear garden by a low fence and detached outbuildings.
9. The conversion and sub-division of the existing building would not result in any material change to external appearance. Although the extension to the side, to accommodate a third, two storey / one bedroom dwelling, would not incorporate a set back from the existing building, the Council are satisfied that it would be an appropriate form of extension to the existing building and the end of the terrace. I have not reason to disagree with this conclusion, and I am satisfied that the proposal would not, in these terms, cause harm to the character of the area.
10. 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.

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<sup>2</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>3</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'

11. 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. The residential units created by the scheme would be small and therefore unlikely to generate significant movements of vehicles, or patterns of movement that would differentiate the small units from the dwellings nearby.
12. I note that the Council do not object to the proposal in terms of the appearance of the extension, and I am satisfied that the conversion and sub-division of No.11 would not materially alter the external appearance of the building. The refusal reason states that the provision of small property types such as those proposed in this instance would be out of keeping with the character of properties in the surrounding area. However, the nature of occupation and the size of the units, and therefore any differences with dwellings in the surrounding area, would be imperceptible. Nor am I persuaded that the proposed units would generate a materially greater or harmful level of movement, be that pedestrian or vehicular, that would cause harm to the residential character of the surrounding area.
13. 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. 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, I am satisfied that the proposal would not cause material harm to the character of Islington Walk, Grantham Green, surrounding streets or the wider area.

#### *Living conditions*

14. The refusal reason states that the proposal would be contrary to the local development plan and the Framework which 'requires new housing development to be of a high quality, provide a good level of amenity for future occupants and to function well'. It does not, however, elaborate upon what amenities would be affected, or in what way the proposal would fall short.
15. The Council's SofC refers to 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. Whilst I am aware that the Council have adopted the IP, which in turn refers to the NDSS, the Council do not rely on the IP in this instance. 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>4</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

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<sup>4</sup> Paragraph: 018 – Reference ID: 56-018-20150327

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 an appeal decision<sup>5</sup> referred to by the Council in relation to a similar appeal case.

### **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. 11 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) to the outdoor amenity space 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, whilst conditions relating to the laying out of the parking spaces and construction arrangements are necessary in the interests of highway safety.

### **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

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

### **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: J007-SLP; 03 Rev B; Existing Plans 01 Rev B; Proposed Plans 01 Rev B and J011-P-01-002.
- 3) Reason: To ensure a satisfactory form of development
- 4) 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.
- 5) 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.
- 6) Prior to the first occupation of the development hereby permitted the parking bays shown on the approved plans shall have been laid out on site in accordance with constructional details which shall first have been submitted to and approved in writing by the Local Planning Authority.
- 7) A plan showing the location of temporary car parking to accommodate operatives and construction vehicles during the development of the site and measures to protect any existing footpaths and verges shall be submitted to and approved in writing by the local planning authority and implemented upon commencement of construction and thereafter such parking is to be removed on completion of the works.