



Appeal Decision

Site visit made on 20 February 2015

by **Helen Heward BSc Hons MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 March 2015

Appeal Ref: APP/N1350/A/14/2224382
46 Greenbank Road, Darlington, DL3 6EJ

- 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 Mr Ben Quintrell against the decision of Darlington Borough Council.
 - The application Ref 14/00514/FUL, dated 16 May 2014, was refused by notice dated 11 August 2014.
 - The development proposed is described as "sub-division of a terraced property into 4no self-contained dwelling units; to comprise 2no studios and 2no flats".
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Decision

1. The appeal is dismissed.

Procedural matters

2. I have used the description of development given on the application form.
3. At my site visit I saw that building works had commenced. For the avoidance of doubt my decision is based on the plans as submitted, and not on the works as seen.

Main Issues

4. The proposal is for the subdivision of a mid-terraced dwelling into four self-contained apartments, creating three net additional dwellings.
5. The parties agree that the appeal site is located on Greenbank Road (south) where saved Policy H17 of the Borough of Darlington Local Plan 1997 advises that the sub-division of dwellings into smaller units of accommodation will not be permitted. Although Policy H17 is somewhat dated, the explanatory text explains that the aim of the policy is to protect existing residential amenity, and this is consistent with a core planning principle of the National Planning Policy Framework (the Framework) that planning should always seek to secure a good standard of amenity for all existing and future occupiers of buildings and land (paragraph 17, 4th bullet point). Therefore, Policy H17 carries significant weight in this decision.
6. The supporting text for Policy H17 also provides for limited exceptional circumstances where permissions for sub-division may be permitted, including where the property is already registered with the Council as being used for accommodation sharing amenities or where the property is terraced and bounded on both sides by houses in multiple occupation. However, the

appellant accepts that the proposal is contrary to Policy H17 and it is no part of their case that the exceptional provisions are met. Rather, the appellant argues that other material considerations justify a departure. Therefore, the main issues in this case are:-

- (i) The effect of the proposal upon the residential amenity of adjacent and nearby dwellings in the locality, and
- (ii) Whether there are any other considerations in favour of the proposal that outweigh any harm.

Reasons

Residential character

7. In terms of the planning history of the site, the property was vacant for several years, used as a 'cannabis factory' and, following detection and closure by the Police, subject to some vandalism and theft. The appellant argues that it had become unkempt and in poor physical condition. The most significant external change would be the replacement of all of the windows, although they were boarded up for security reasons at the time of my visit. This temporary boarding and some rubbish outside of the dwelling were the only external visual detractors that I observed at my visit.
8. No new external alterations to the property are proposed, a small enclosed yard to the rear would be retained, cycle and bin storage could be provided in that area which is well screened, and no dedicated parking is proposed. Therefore, the Council raises no objection to the physical effects of the proposed development upon residential character. The Council's concern is confined to the potential impact of additional activity from the occupants of the proposed units upon residential amenity.
9. At my site visit, a representative of the appellant pointed out other properties in the locality that had been sub-divided or where the dwelling houses had been turned into flats. These were mainly in a terraced block north of the junction with Gladstone Street, and not in the block of terraced dwellings at the southern end of Greenbank Road where the appeal premises are. The Council informs me that the dwellings to either side of the appeal premises are occupied as single dwellings. From my observations I saw that several dwellings in this block appeared to be occupied as such and I note that there are letters from the occupiers of 44 directly adjoining the appeal premises, and from the occupiers of the next five consecutive dwellings: 42, 40, 38, 36, and 34.
10. The appellant accepts that sub-divided units can be a source of nuisance in some residential areas, and that there are problems from Houses in Multiple Occupation (HMO's) in the locality. However, the appellant argues that this is not an issue for this proposal as the units are intended for sale to working young professional first time buyers. They further submit that property owners take more pride in the appearance of their dwellings and make more effort to form a part of the community. However, there is nothing before me to demonstrate how the occupation of the units would be restricted. Therefore I attach no weight to this argument.
11. Irrespective of the tenure of occupation, the dwelling would be sub-divided into four units, each separately occupied. These four separate households would all

have their own separate routines, coming and going at different times. I have also taken into consideration the immediate surroundings of the site. As is not unusual in such terraces, the dwellings have close relationships with each other and the street. In this case I noted that the front door of 46 is directly adjacent to the front door of 48 and there are large bay windows to principal ground floor front rooms set back from the public footpath by only a short distance. At the rear, 44 and 46 have adjoining narrow yards which provide rear access. Therefore, I consider that the use would result in a level of activity, noise and disturbance which would detract from the residential amenity of the occupiers of dwellings to either side and of others close by.

12. Letters from residents of dwellings in the locality report existing problems which they attribute to occupiers of existing HMO's in the wider area, such as noise and disturbance. There is nothing to say that the behaviour of the occupiers of the proposed dwellings would be anti-social, but the evidence of existing problems in the wider locality indicates that residential amenity has already been compromised. The intensity and nature of the occupation of the proposed units would add to this.
13. I conclude that the proposal would result in a significant adverse impact upon the existing residential amenity enjoyed by the occupiers of adjacent dwellings and a moderate adverse impact upon occupiers of nearby dwellings and is contrary to Policy H17 of the Darlington Local Plan 1997, and contrary to advice at paragraph 17 of the Framework.

Other considerations

14. The site is in a main urban location, where Policy CS1 of the Darlington Local Development Framework Core Strategy (2011) seeks to concentrate development. Demographic, economic and welfare changes may have increased the need for smaller dwellings since the introduction of Policy H17. Such changes and the pressures they bring add to the need to boost significantly the supply of housing. The proposal would deliver a net increase of three additional small dwellings and in this way make a contribution toward the social and economic roles of sustainable development. But the contribution would be small and therefore attracts only a modest amount of weight in favour of the proposal.
15. There is support for the reuse of the building and the removal of a vacant building would have social and environmental benefits for the community. However, looking at all of the submissions, including those from the Council and residents, and from my observations, I am not persuaded that the evidence demonstrates a significant long standing and persisting anti-social, nuisance or dangerous problem. Therefore, the benefit of improving the conditions in which people live their lives attracts only a small amount of weight in favour.
16. The appellant argues that properties such as the appeal premises are mainly attractive to investors seeking to subdivide them. A letter from a local estate agent advises that they would find it challenging to sell the property as a 5 bedroom single dwelling. One of the factors referred to is the high cost of bringing the property into habitable use. However, there is no evidence of what these financial costs would be or, of a comparison of the costs of refurbishment to a single dwelling compared to subdivision to four, or any other number of units. Nor is there any evidence of the property having been

marketed as a single dwelling. Therefore, I am not persuaded that the case has been made out that there is no market for the premises as a single dwelling or that the only way to ensure the premises are not vacant and a detractor in the street scene is by allowing the appeal proposal for subdivision into four self-contained dwellings and I attach little weight to these arguments.

17. Notwithstanding concerns from residents about parking and noise from within the proposed dwellings there are no objections to the proposal from the Council's Highway and Environmental Health officers, subject to the imposition of appropriate and reasonable conditions for cycle storage and noise insulation. However, these are not factors in favour; they are in effect neutral.
18. To provide a supply of housing to meet the needs of the present and the future, and which supports building vibrant and healthy communities and improving and enhancing the places in which we live requires appropriate consideration of the amenity of existing occupiers. I find that the modest benefits of this proposal do not justify allowing a proposal where there would be significant adverse impacts upon existing residential amenity.

Conclusions

19. The proposal would make a small contribution towards increasing and widening the supply of housing to meets needs and demands, and in these ways it would contribute toward the social and economic roles of sustainable development. Providing a solution to a vacant building would also contribute some limited social and environmental benefits. However, the benefits do not outweigh the significant and moderate adverse impacts to the residential amenity of occupiers of adjacent and nearby dwellings and do not justify a proposal contrary to Policy H17.
20. Moreover, although the Framework supports the delivery of sustainable development without delay, sustainable development requires achieving economic, social and environmental gains jointly. For the reasons stated I conclude that the adverse impacts mean that the proposal would not amount to sustainable development. Paragraph 14 of the Framework for the presumption in favour of sustainable development is not engaged.
21. Therefore, and having taken all other matters into consideration, I conclude that the proposal is contrary to Policy H17 of the Darlington Local plan 1997 and advice in the Framework and that the appeal should be is dismissed.

Helen Heward

PLANNING INSPECTOR