



## Appeal Decision

Site visit made on 15 February 2010

by **D R Cullingford BA MPhil MRTPI**

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

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Decision date:  
5 March 2010

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**Appeal Ref: APP/H0738/A/09/2117189**

**The Former Rocket Building, Railway Terrace, Thornaby, Stockton-on-Tees  
TS17 6AR**

- 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 by H and M Properties against the decision of the Stockton-on-Tees Borough Council.
- The application (ref: 09/0500/FUL and dated 4 March 2009) was refused by notice dated 20 May 2009.
- The development is described as the 'demolition of existing building and erection of café/bar with 196 student apartments (revised scheme)'.

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### Application for costs

1. An application is made for a partial award of costs in connection with this appeal. This is the subject of a separate letter.

### Decision

2. For the reasons given below, and in exercise of the powers transferred to me, I dismiss the appeal.

### Reasons

#### *The site and surroundings*

3. The former Rocket Building is a plain dishevelled cream-painted 2-storey structure attached to some down-at-heel shed-like warehouses. The buildings form part of this long narrow appeal site (about 0.2ha in extent) that includes a small car park and some self-sown trees on a strip of 'left-over' land beside a shallow railway cutting. The buildings were once used as a club (the Rocket Union) and several submissions from local people testify to the noise and revelry that previously occurred. It is now empty and unused. It overlooks Railway Terrace and the threadbare facilities of the island platform at Thornaby railway station: it masks a cacophony of garages, sheds and yards on an old industrial estate to the south. It also forms an incongruous juxtaposition with the proud red brick façades (in free Renaissance style) and prominent clock-tower of the old Thornaby Town Hall (a grade II Listed Building), now marooned beside the one-way systems and ordinary industrial structures of Mandale Road (part of the A1130).
  4. Although the site appears to be located in a forgotten corner of the town, it is only about 450m (via the 'fragile' station footbridge) from Queen's Campus (Durham University's new presence at Stockton) and a similar distance along Mandale Road to the edge of the town centre. Buses ply along Mandale Road
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and along Station Street (on the other side of the railway line) and the station itself offers quite frequent connections further afield.

*The proposals*

5. The proposal is to provide accommodation for 196 students either arranged as 3, 4 or 5 bedrooms around a 'lounge and kitchen' or as studio apartments. The accommodation would be in 2 long and fairly narrow buildings separated by a small car park positioned towards the centre of the site. Both structures would present carefully articulated façades designed to evoke the impression of nineteenth century railway warehouses. That section of the western building beside the old Town Hall would be the same height as the Listed Building, although it would accommodate 4 floors in 3½ storeys; the sections would rise progressively eastwards to 6 floors. The eastern block would accommodate 8 floors in 7½ storeys. The car park is shown as providing 5 spaces for disabled people: a further 3 spaces are indicated at the western end of the site intended for staff at the café/bar. The café/bar would occupy about 550m<sup>2</sup> of floorspace some 2-storeys in height at the western end of the western block. Vehicular and pedestrian access to the buildings would be via Railway Terrace; a rear roadway and a gated access along the southern boundary would serve the small car park and lead to storage facilities for 26 cycles.
6. A Unilateral Undertaking offers £47,000 for the replacement of the footbridge across the railway station, so ensuring safe pedestrian access to the University campus and to the town centre. £10,000 is offered for landscaping the area adjacent to the railway cutting. £5,000 is intended to provide for the installation of parking meters and parking restrictions in the streets to the north and south of the station (Station Street and Railway Terrace, respectively) or anywhere within 150m of the site: and, a further £5,000 would contribute to the availability of a 'transport coordinator' to help with the travel and transport needs of the prospective occupants. In addition, a contribution of £35,000 would support the operation of a car sharing scheme (to be run by the Option C Car Club) for at least 2 years. This would provide 2 cars available for hire and use by occupants, usually on a pre-booked basis.

*Planning policy and the main issues*

7. The Council have refused permission for the proposal because the submissions failed to demonstrate a proven need for the development, contrary to adopted interim policy guidance on student accommodation. They also consider that the scheme would not enhance the character of the area or create a suitable sense of place, due to the lack of space for a landscaping scheme of appropriate quality, contrary to 'saved' policies GP1, HO3 and HO11.
8. Initially there was also concern that the almost complete absence of off-street car parking would lead to on-street parking problems, thereby impeding the free flow of traffic and jeopardising pedestrian safety. Recently, however, that objection has been withdrawn on the understanding that the 5 spaces shown in the car park would be maintained and managed for the use of students and that the proffered contributions should guarantee the operation of the car club over the first 2 years; those 'club cars' would be parked on the street. Nevertheless, I am not convinced that those measures would adequately overcome all potential parking problems; I shall address that issue later.

9. In almost all other respects the proposal is deemed to be acceptable. Clearly, the transformation of a prominent site beside the old Town Hall, at an entrance to both Stockton and Thornaby and overlooking the River Tees could well act as a catalyst in regenerating this place and contribute to the Council's wider aspirations for the regeneration of the 'Mandale Triangle' (the area on the opposite side of Mandale Road). I am in no doubt that the design of the scheme would enhance the setting of the Listed Town Hall. It would do so both historically (by reflecting the character of nineteenth century railway warehouses, once typical in the town) and architecturally (by the use of an appropriate palette of materials, by the clever articulation of the façades and by the sympathetic orchestration of scale and mass). In terms of the character and appearance of the buildings, I think that the design is impressive. And, given the surrounding mix of commercial uses on the fringe of Stockton town centre, the proposed use would not obviously be inappropriate, provided adequate noise insulation were to be installed to protect the living conditions of prospective occupants. As the buildings would be some 85m from the nearest residential property, the scheme would not impinge on the amenity or privacy of existing residents. And, with an appropriate restriction of opening hours, the proposed café/bar should be able to operate without inflicting undue noise and disturbance on those nearby.
10. Hence, from what I have read and seen, I consider that this case turns on whether the proposal would:
- i) meet a proven need for student accommodation,
  - ii) lack adequate landscaping, or
  - iii) unacceptably exacerbate road hazards or parking problems.

*The need for student accommodation*

11. The appellants argue first, that very little weight should be accorded to the 'interim student accommodation policy document' following the advice in PPS12 paragraph 6.4 and the reasoning of a previous Inspector in connection with a recent appeal relating to the 'Supreme Knitwear' site in the 'Mandale Triangle' nearby (APP/H0738/A/09/2102926, dated 2 November 2009). Second, they claim that even on the basis of the figures in the 'interim policy document', a need can be demonstrated. Accommodation for 806 students is currently not provided for in halls of residence or purpose built housing and even if the 556 permitted bedrooms in the Dovecote Street and North Shore schemes materialise (which is suggested as doubtful), a need for a further 250 bedrooms would remain. That is further confirmed by the expected increase of some 200 students at the Queen's Campus over the next 5 years. Third, it is suggested that the appeal buildings could easily be adapted to provide open market apartments or offices in the event that the intended student occupants failed to materialise. I consider each of those points in turn.

*The policy*

12. Paragraph 6.4 of PPS12 exhorts councils not to 'produce planning guidance other than SPD where the guidance is intended to be used in decision making or the coordination of development' and indicates that that 'could be construed as wishing to circumvent the provisions for consultation and sustainability appraisal'. On that basis the previous Inspector considered that, as the 'interim policy document' had been prepared outside the development plan

system and without being subjected to the consultation indicated in the Statement of Community Involvement or to any Strategic Environmental Assessment, it could be afforded very little weight. I disagree. PPS12 is advice, not statute. The Acts still require that an application should be determined in accordance with a development plan (if material) and with regard to any other material consideration. Court judgements demonstrate that it is not necessary, let alone sufficient, for a 'material consideration' to have been subjected to public consultation or SEA; the test is, in my view, essentially one of relevance. Indeed, it would be bizarre if the advice in PPS12 could be interpreted to render immaterial something like the 'interim policy document', which has been specially prepared to address a specific planning problem, while maintaining the potential materiality of documents and policies prepared in other contexts and for other purposes.

13. In this case, it seems to me that the 'interim policy document' is very relevant. Contrary to the assertion of the previous Inspector, it has been prepared in the context of the development plan system; not only is it part of the evidence base to inform the emerging Core Strategy, but also the policy itself forms part of policy CS8 in the Core Strategy DPD, as published in October 2008 and as amended in March 2009 for examination in September. The policy itself would thus actually accord with the advice in PPS12. Moreover, as evidence, I think that the 'interim policy document' has been carefully researched and gleans sound information from those involved in the provision of student housing, from the students themselves and from the experience of other local planning authorities. In addition, it addresses a valid concern that, in a place like Stockton where the need for student accommodation is demonstrated to be almost wholly dependent on the establishment of the new Durham University colleges on Queen's Campus, a mismatch in supply and demand could result in serious environmental costs entailed in adapting unsuitable buildings to other uses or in coping with empty surplus student accommodation. I think that those 'costs' could be very damaging. They could render development unsustainable. They could also undermine the potential regeneration expected to emanate from the establishment of Queen's Campus, which forms a crucial element in the support for (as in policy 14 of the adopted RSS), and commitment to, that project. This is not a 'private interest' (in the terms referred to in PPS1 and by the previous Inspector), but a legitimate public one.
14. For those reasons, I consider that the 'interim policy document' is relevant and an important material consideration in the determination of this appeal.

*The need*

15. Does the evidence demonstrate a need for student accommodation? The estimated remaining need for a further 250 bedrooms (as set out above) seems to me to ignore the significant provision made by individual landlords in the private sector. In 2009 some 900 such places were advertised through the Universities accreditation scheme and, even if that included all the rooms in Rialto Court, that would still leave a supply of available rooms amounting to about double the number of potential student occupants. And, if the private rented sector was to cater only for those opting to occupy such rooms (about 620 students in 2009), then supply and demand would broadly balance; there would be no obvious need for further purpose built student accommodation.

16. Of course, that calculation depends on the provision of accommodation at Dovecote Street and on the North Shore. I accept that the extant planning permissions do not guarantee the provision of those rooms. But the evidence presented does not convince me that the impediments to those schemes are such as to constitute 'genuine concerns' as to their deliverability. In particular, the North Shore scheme is part of a flagship regeneration project led by Tees Valley Regeneration and involving wide ranging partnerships, multi-agency agreements and the involvement of University. Commitment to the scheme has evolved over the last 8 years or so and it is supported by outline and detailed planning permissions, a coherent master plan, infrastructure provision and land reclamation.
17. Moreover, both the University and private letting agents suggest that the demand for student accommodation rented from the private sector has remained stagnant, so that existing provision is likely to meet demand in the short to medium term. That expectation is derived from the recent first hand experience of operators in the field. The University also provides figures to support those observations. And, they suggest that the anticipated growth in students at Queen's Campus is expected to come mainly from part-time post graduate students and those pursuing professional development studies, neither of which are likely to require new purpose-built accommodation. My colleague appears to discount that evidence on the basis that it is offered by those providing student accommodation on a commercial basis and with consequent commercial interests in that market. I think such a stance is misconceived. First, a commercial interest in this market is likely to ensure some knowledge of what is going on. Second, such an interest does not necessarily render the evidence derived untrue or unreliable. Third, what concrete evidence that exists here actually supports the suggestion that existing provision is likely to meet demand in the short to medium term. Fourth, I do not accept that the evidence provided by Durham University has been submitted with the intention to mislead. In my opinion, cogent reasons would be required to warrant a contrary view. No such evidence has been adduced.
18. Taking all those matters into account, I find that the evidence indicates that the existing provision of student accommodation is likely to meet demand in the short to medium term. There is thus no proven need for this additional student accommodation now.

*The accommodation*

19. To avoid potential environmental costs (were a mismatch in supply and demand for student accommodation to materialise), it is suggested that the appeal buildings could easily be adapted to provide open market apartments or offices in the event that the intended student occupants failed to materialise.
20. The internal arrangement of the rooms in the proposed buildings is conceived as a series of 'pods' either arranged as 3, 4 or 5 bedrooms around a 'lounge and kitchen' or as studio apartments. It is accepted, very fairly, that such a layout would not normally convert easily to open market apartments. I am afraid, in my view, that that is just what the submitted plans illustrating how the buildings might be converted seem to demonstrate. As far as I can tell, the drawings indicate that most of the potential 1 and 2 bedroom flats would be

largely single aspect apartments and that several would have completely enclosed bathrooms and kitchens. Most would have no external amenity space at all (a few would have small balconies) and although the outlook from many would be across the station and beyond, some would be confined to a bleak prospect across the middle of sheds on the industrial estate. Given the proximity of the repair and welding and other uses undertaken there, I am not convinced that those latter apartments would offer the sort of conditions commensurate with modern living.

21. It is estimated that 85 flats (offering 1 or 2 bedrooms) could be provided if all the accommodation for 196 students was to be converted to open market apartments. There would then be a requirement for 110 car parking spaces (at 1.3 spaces per apartment), deemed to be reasonable in a sustainable location like this one. An area of about 0.3ha (including a roadway) is identified beyond the appeal site on the industrial estate to the south. It is suggested that that area could accommodate space to park up to 105 cars, so that some 110 spaces could be made available in conjunction with the 5 to 6 spaces shown within the application site. The claim is that an option has been secured for a period of 5 years, should an alternative use need to be pursued. Unfortunately, no mechanism yet exists to ensure that the use of that land for car parking could be secured, should it be needed, in connection with the development now proposed. There is no evidence to indicate that the land is owned, or now controlled, by the appellant. It is not part of the proffered section 106 Undertaking. Moreover, in the absence of any details, it is not clear how the use of that land for the parking of residents' cars would relate to the adjacent industrial uses.
22. I can find no indication of how the buildings might be converted to office use. Much might depend on what sort of offices were envisaged. However, at first glance I doubt that it would be easy to provide the reception areas, the communal spaces, the toilets and the like from the currently proposed internal configuration. And, of course, the parking arrangements would entail different considerations to those mooted so far.
23. Hence, on the basis of the evidence submitted, I doubt that the buildings proposed could easily be adapted to provide either open market apartments or offices, should the intended student occupants failed to materialise.

*The lack of adequate landscaping*

24. Given the long and thin configuration of the site, there is little space to accommodate landscaping. The Council suggest that there should be a 10m 'buffer' between the eastern block and the adjacent buildings to the east and a 7m strip along the northern frontage to accommodate specimen trees. Purely to accommodate such landscape treatment, that might be right. But, the latter suggestion would make it very difficult to build anything on the central portion of the site and the former would, perhaps, unnecessarily retain winter views of an entirely ordinary industrial building across the intervening landscaped space. More importantly, I am not sure that much landscaping would be appropriate here. One aspect to evoking the character of nineteenth century railway warehouses (successfully achieved in my view), is that such structures are usually perceived amongst relatively stark surroundings. Few such buildings

would be expected to stand behind a boulevard of trees or be immersed amongst extensive planting.

25. In any case, my understanding is that the section 106 Undertaking includes £10,000 towards the landscaping of the area adjacent to the railway cutting. In my view, that would enhance a piece of 'left-over' urban land and provide further trees and foliage just where they might be expected in relation to the design solution chosen for the proposed buildings.

*Parking problems*

26. As indicated above, the proposal now includes the provision of 5 or 6 spaces in a car park on the site, contributions to install parking restrictions in the surrounding streets and the guaranteed operation of a 'car club' over the first 2 years; the expectation is that the car club should be a self-supporting viable concern within that 2 year period.
27. I appreciate that the accommodation would be in a sustainable location close to the town centre, to bus routes, to the railway station and only about 450m from the University. There would also be a 'transport coordinator' to help with the travel and transport needs of the prospective occupants and the opportunity to 'hire' cars from the car club. I accept that such measures might well discourage the use of private cars. I do not accept that they would necessarily deter all students from owning a car or bringing such a vehicle with them to enhance their experience of university life. There is nothing to indicate how the provision of 2 'car club' vehicles would relate to the travel needs and desires of 196 students. Nor would the use of those vehicles appear to be especially cheap. And, although parking restrictions could be imposed in Railway Terrace and Station Street, I doubt that such restrictions would be a practical possibility in the industrial estates nearby. Moreover, no mechanism is suggested to link the terms on which students might occupy their rooms with any control that might be exercised by the University (or other institution of higher education) or to any tenancy agreement (or other form of control) exercised by the developer or a subsequent landlord. In those circumstances, I remain unconvinced that the measures proposed would act as an effective deterrent to prospective car-owning residents.
28. The Council's current guidance suggests that about 50 parking spaces should be provided in 'halls of residence' in locations like this one. In my view, that would chime with the level of car ownership prevalent amongst student households here and the indication that about 50 student 'pods' would be accommodated in the proposed buildings, some 3-5 bedrooms being arranged around a kitchen and lounge. In the almost complete absence of any on-site parking, that level of demand could lead to unauthorised parking in the nearby streets, thus making enforcement difficult, or on the adjacent industrial estates, thereby inhibiting access to the existing businesses there. And, although I agree that the parking provision for the café/bar would probably not need to be on the scale normally required (110 spaces, according to the guidance currently operative), the parking that might be generated by that proposal could exacerbate the difficulties identified. I think that the effects would be harmful.

29. Provision is to be made to park 26 cycles. The requirement set out in *SPD3: Car Parking in New Developments* is for 6 spaces per 30 residents, so that 40 spaces should be provided in covered and secure facilities here. I can find no cogent reason why that guidance should not be followed in relation to the proposed development.

*Conclusion*

30. I have found that the evidence does not demonstrate that this major proposal for student accommodation would meet a proven need, contrary to a relevant 'interim policy document' that I consider to be an important material consideration here. On the contrary, I think that the evidence indicates that the existing provision of student accommodation is likely to meet demand in the short to medium term. And, if the intended student occupants failed to materialise, that the difficulties of adapting the buildings to provide either open market apartments or offices could undermine the benefits expected to flow from the efforts to establish institutions of higher education in the town. In the circumstances that apply here, the absence of adequate car parking could exacerbate those harmful effects. I acknowledge that the contribution to enhancing the landscape adjacent to the railway cutting would provide an appropriate setting for the buildings, which would themselves create a striking presence here and enhance the setting of the Town Hall. However, I find neither those nor any other matter raised sufficiently compelling to alter my conclusion that this appeal should be dismissed.



INSPECTOR





## Costs Decision

Site visit made on 15 February 2010

by **D R Cullingford BA MPhil MRTPI**

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

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Decision date:  
5 March 2010

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### Costs application in relation to Appeal Ref: **APP/H0738/A/09/2117189** The Former Rocket Building, Railway Terrace, Thornaby, Stockton-on-Tees TS17 6AR

- This application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
- The application is made by H and M Properties for a partial award of costs against the Stockton-on-Tees Borough Council.
- The site visit was in connection with an appeal against the decision of the Council to refuse to grant planning permission for development described as the 'demolition of existing building and erection of café/bar with 196 student apartments (revised scheme)'.

**Summary of Decision: ~ The application is refused.**

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#### Reasons

1. Circular 03/2009 advises that, irrespective of the outcome of the appeal, costs may only be awarded against a party who has behaved unreasonably and thereby caused the party applying for costs to incur unnecessary or wasted expense in the appeal process.
  2. The claim is that the Council have behaved unreasonably in failing to adequately substantiate 2 of the 3 reasons for refusal. Very fairly, given that the objection on the grounds of inadequate parking provision has now been withdrawn, no application for costs is made in connection with the third reason for refusal. However, it is claimed that the requirement to demonstrate a proven need for the development and to apply adopted 'interim policy guidance' on student accommodation is unreasonable, given Government advice and the observations of a previous Inspector in connection with a recent appeal nearby (APP/H0738/A/09/2102926). In addition, it is asserted that the insistence on additional landscaping is inappropriate in this location and unsubstantiated.
  3. I explain in the decision letter why I think that the 'interim policy guidance' on student accommodation is relevant and an important material consideration in the determination of this appeal: I set out why the evidence suggests that there is no proven need for additional student accommodation now: and, I indicate the grounds on which I doubt that the buildings proposed could easily be adapted to provide the alternative uses suggested. I think that it is clear why I disagree with my colleague and why the Government advice cited does not warrant 'very little weight' being accorded to the 'interim policy guidance'. It follows that the first reason for refusal is not unreasonable.
  4. As for the insistence on additional landscaping, I think that it is inappropriate (for the reasons set out in the decision letter). However, I cannot see how that
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would have resulted in unnecessary or wasted expense in the appeal process. The matter is dealt with quite shortly in the written submissions and much of the substance is derived from the 'design and access' document. And, an appeal could have been necessitated by the other reasons for refusal.

5. I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has not been demonstrated.

**Formal Decision**

6. In exercise of the powers transferred to me, I refuse this application for an award of costs



INSPECTOR