



Appeal Decision

Site visit made on 27 September 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:
21 October 2010

Appeal Ref: APP/H0738/A/10/2133103

10 High Street, Norton, Stockton-on-Tees, TS20 1DN

- 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 A Laird against the decision of the Stockton-on-Tees Borough Council.
- The application (ref: 09/3092/FUL and finally dated 6 May 2010) was refused by notice dated 14 July 2010.
- The development is described as the 'conversion of existing outbuildings to residential dwelling including minor external alterations to yard'.

Application for costs

1. An application is made for an 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 the proposal

3. In the back yard, behind what is now a refurbished commercial building with flats above in Norton's attractive High Street, stand a couple of dishevelled shed-like structures, once a garage and a store. The proposal would involve the conversion and extension of those structures to form a small dwelling accommodating a kitchen with a dining area, a living room and a bedroom with a shower room. A small patch of the yard would provide a 'sitting area' with storage for bins and cycles shared with other residents.

Planning policy and the main issues

4. The Council are concerned that the scheme would fail to incorporate satisfactory access and parking arrangements, contrary to policy CS2 of the Core Strategy and 'saved' policy H03. In addition, they consider that inadequate levels of privacy and amenity would be achieved for both future and existing residents, contrary to policy H03. Those are the issues on which this appeal turns.

Parking

5. On the first issue, I note that the relevant SPD indicates that roughly 3 (actually 2.75) parking spaces would normally be required to cater for the
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proposed development in addition to the Class A2 use and the 2 flats, all previously permitted at appeal (APP/H0738/A/09/2111707). It is clear that that requirement is honed to cater for such a 'High Street' location and the relatively good public transport available in the 'central' part of the Borough. It is suggested that, taken with the planning history, the SPD would indicate a slightly lower provision of 2.5 car parking spaces. Of course, I agree with my colleague (APP/H0738/A/08/2077240) that such a location (well within the built up area, close to a district centre and with reasonable transport links) might also warrant further reductions 'if conditions are right'. But it does not follow that, because the presence of accommodation suitable for families was the reason why 'conditions' were not right in the context of that previous appeal, the provision of 1 and 2 bedroom flats would make 'conditions right' here. Much would depend upon the basis on which these dwellings were occupied and on the characteristics of the occupants. And, in this case, the commercial use could also be expected to generate some parking requirement.

6. The proposal would obliterate the one off-street parking space potentially available at the appeal premises to serve the Class A2 use and the 2 flats. And, it would result in an additional dwelling without any off-street parking provision. Hence, as a consequence of the scheme there would be no off-street parking provision to serve 'professional offices' and 3 dwellings. I saw, as did my colleague, that parking spaces, including those in the public car park, were at a premium on the High Street, so that any parking requirement generated at the appeal premises would be likely to exacerbate the competition for spaces and accentuate circulation and manoeuvring difficulties, thereby adding to the inconvenience of all concerned. No 'travel plan' or any other mechanism is promoted to mitigate the problems that could ensue from the complete absence of any parking provision at the appeal premises. Hence, and in the circumstances that currently pertain, I doubt that a 'car free' scheme would be appropriate here.
7. Instead, the appellant has secured a 20 year lease on space for 2 parked cars within a concrete 'car park' behind a bleak block of flats just to the rear of the appeal premises. It is suggested that this would provide a reasonable level of car parking and that a condition would ensure that such provision could be retained throughout the existence of the development. However, I saw that this area already accommodates parked cars and I think that mechanisms of control would be necessary to secure such spaces for use by those at the appeal premises. No evidence is adduced to show that the terms of the lease would allow for the installation of locking bollards (or some similar device) at the leased parking spaces or guarantee unobstructed access to those spaces over the concrete yard. Hence, it is unlikely that the scheme required by the suggested condition would suffice. Moreover, even if it would, the limitation of a 20 year lease would mean that it could not be retained 'for as long as the development remains in existence' because, of course, the development is intended to be permanent. I consider, therefore, that this scheme would fail to incorporate satisfactory parking arrangements, contrary to policy CS2 of the Core Strategy and 'saved' policy H03.

Privacy

8. Turning to the second issue, the proposed dwellings would have all windows and doors facing directly into the back yard at No.10. This limited space would

be shared with all the other occupants of both the professional offices and the 2 flats. Because there is no internal staircase to the upper floors, the yard must serve as the only access to those flats and provide a secondary access to the offices for owners and employees. The configuration of that access would result in all that coming and going passing within about 1.5m of the bedroom window (and barely further away from the remaining windows and doors) at the proposed dwelling. Such potential surveillance at such close quarters would seriously impair the privacy of prospective residents. I do not accept that such arrangements are common in flatted developments or that they are similar to those where dwellings front directly on to the street. In relation to the latter, every opening in this single aspect dwelling would be affected and this yard would be a private rather than public space. Moreover, the proximity of windows in the first floor flat to kitchen and living room windows at the proposed dwelling (just 4m and 8m distant, respectively) would accentuate those harmful effects.

9. In addition, the yard would be the only amenity space for residents of the upper floors (providing storage for bins and bikes as well as space to sit out and to hang washing lines) and it could well offer a place where employees at the offices might eat their sandwiches or congregate for smoking breaks. All that activity would occur close to living room and kitchen or dining room windows at the proposed dwelling. Such mutual proximity would seriously impinge on the privacy of all concerned and, thereby, contravene the requirements of 'saved' policy HO3.

Conclusion

10. For all those reasons, and in spite of considering the other matters raised, I can find nothing sufficiently compelling to alter my conclusion that this appeal should be dismissed.



INSPECTOR



Costs Decision

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Decision date:
21 October 2010

Costs application in relation to Appeal Ref: APP/H0738/A/10/2133103 10 High Street, Norton, Stockton-on-Tees, TS20 1DN

- 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 on behalf Mr A Laird for an award of costs against the decision of 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 'conversion of existing outbuildings to residential dwelling including minor external alterations to yard'.

Summary of Decision: ~ The application is refused.

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 reasons for refusal alleging the unsatisfactory nature of proposed access and parking arrangements as well as inadequate levels of privacy and amenity for prospective and existing residents.
3. The test of unreasonable behaviour is a severe one; it does not condone claims where legitimate grounds for disagreement exist. In this case, I cannot see how the claim relating to the access arrangements could have resulted in unnecessary or wasted expense since it is dealt with very shortly in the written submissions and an appeal could well have been necessitated by other aspects of the reasons for refusal. In relation to the parking arrangements, I explain in my decision letter why I think that the mechanism proposed to secure the provision could not be guaranteed to be effective, so running the risk of exacerbating competition for parking spaces on the High Street. It would not be expedient to enforce the implementation of a defective scheme. And, even if it is right that this garage was never used for parking (an assertion that I cannot find in the submissions), it does not follow that its potential use would be impossible. As for the claim relating to privacy and amenity, it seems to me to be wholly without merit; my decision letter explains why. Moreover, to compare the proposed development with the scheme permitted at 44-48 High Street (again a specific reference that I cannot find in the submissions) seems to me to be so misleading (for reasons indicated in my decision letter) as to be, in itself, verging on the unreasonable.

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

Formal Decision

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

A handwritten signature in black ink, appearing to read "O. Cullinford". The signature is written in a cursive style with a large initial "O".

INSPECTOR