



## Appeal Decision

Site visit made on 9 October 2018

by **E Symmons BSc (Hons) MSc MArborA**

an Inspector appointed by the Secretary of State

Decision date: 06 December 2018

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**Appeal Ref: APP/H0738/W/18/3205467**

**3 Railway Cottages, Urlay Nook Road, Eaglescliffe TS16 0JL.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
  - The appeal is made by Mr Marcus Emadi against Stockton-on-Tees Borough Council.
  - The application ref 18/0337/FUL, dated 14 February 2018.
  - The development proposed is a two storey extension to the side and rear with conversion to two apartments.
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### Decision

1. The appeal is dismissed.

### Application for Costs

2. An application for costs has been made by Mr Marcus Emadi against Stockton-on-Tees Borough Council. This application is the subject of a separate decision.

### Procedural Matters

3. On 14 February 2018 Mr Marcus Emadi submitted an application for the above development to the Council. On 24 February 2018 a second application was made showing Mrs Anna Craig as the applicant with an extended description of the proposals. There is disagreement between the appellant and the Council as to whether this second application form was accepted. However, as Mr Emadi's status as both initial applicant, and now the appellant, has now been confirmed I have proceeded on that basis.
4. The Council resolved that had it been in a position to determine the application it would have refused planning permission for reasons due to the effect on character and appearance and on the living conditions of occupiers of neighbouring properties.

### Main Issues

5. The main issues are:
  - The effect of the development on the character and appearance of the host property and wider area;
  - The effect of the development on the living conditions of neighbouring properties in respect of their privacy and outlook, and whether it would provide suitable living conditions for future occupiers with regard to amenity space; and

- The effect of the change of use on the character of the area.

## Reasons

### *Character and appearance*

6. The appeal property sits at the end of a short terrace of two-storey houses in a prominent elevated position. The brick built terrace has a simple design and despite not being listed, is characteristic of similar properties in the area which are historically associated with the adjacent railway. The neighbouring attached property is 2 Railway Cottages (no 2) and on the other side, separated by a gap, is 4 Railway Cottages (no 4). To the rear, and separated by a short sloping bankside with shrubs and young trees, is Flounders House which is a flatted development sitting at a lower level. The front garden of the property, and others in the row, is characterised by a retaining wall along the pavement boundary with a sloping garden and driveway leading up to the front door. There is a single storey rear extension adjacent to the boundary with no 2, giving the appeal property an L-shaped footprint. The rear yard is enclosed by high fencing on the boundary with no 4 and by a wall created by an outbuilding at no 2. The rear boundary is inaccessible due to dense vegetation.
7. The Council's Supplementary Planning Guidance Note 2<sup>1</sup> (SPG2) aims to prevent a terracing effect from side extensions by recommending a 1 metre setback from the side boundary or alternatively, up to 2 metres setback from the front of the house. Although the proposed development leaves sufficient gap to the side and has a step down in the roof ridge level, the front elevation is only set back by around 0.5m from the host house. The extension's front window and door design bring the front elevation into line with the existing property partly negating the set-back and contrary to the aims of SPG2.
8. The proposed extension would wrap around the host property, extending the rear elevation by about 7.8m, encompassing the existing single storey rear extension. This would create a side elevation around 12m wide which would be visible when viewed from the busy main road (A67) which runs to the front of the property. It would result in a visually large mass which would be out of scale with the host property and an incongruous feature in the existing terrace.
9. To allow appropriate levels of in curtilage car parking the development would require excavation of the front garden to create a level parking area at street level for four cars with associated turning space. The appearance of the front garden would substantially change by removal of the characteristic front boundary wall and sloping profile again creating an incongruous feature.
10. The combined effect of the enlarged side and front elevation, and re-profiling the front garden, would materially harm the character and appearance of the host property and the wider area. This would be contrary to policies HO3, HO6 and HO12 of the Stockton-on-Tees Local Plan 1997 (Saved Policies), policy CS3(8) of the Stockton-on-Tees Borough Council, Core Strategy Development Plan Document 2010 (Core Strategy) and policies D3 and SD8 of the emerging Stockton-on-Tees Publication Draft Local Plan 2015 (emerging Local Plan). In combination these policies seek that extensions are appropriate to the host property and context of the surrounding area and make a positive contribution to the local area.

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<sup>1</sup> Householder Extension Guide, 2004

### *Living conditions*

#### *Number 2 Railway Cottages*

11. The proposed two storey rear extension would project around 5m along the boundary with no 2. It would be around 1m longer than the existing extension and despite the proposed 30mm offset from the boundary, would create a large two-storey blank wall. This would have an overbearing effect on no 2 affecting the outlook from the rear facing windows and the occupiers' enjoyment of the rear rooms and private outdoor space.

#### *Number 4 Railway Cottages*

12. No 4 Railway Cottages is separated from the appeal property by a substantial gap which this proposal would decrease to around 3.8m. There is a first floor window in the side elevation of no 4. The appellant argues that this window is an unauthorised secondary window, however its planning status is not before me. The Council has suggested that this as a main bedroom window and these proposals, due to their scale, would harm the outlook from this window which would look on to a considerably larger and closer structure than the existing.
13. From my observations on site, and the submitted plans, although not directly opposite the first floor side window of no 4, the proposed first floor window serving 'bedroom 3' in the proposed extension would allow overlooking between the rooms. Given the proposed proximity to no 4, there is potential for loss of privacy and no evidence to the contrary has been submitted by the appellant. I have considered whether a condition requiring obscure glazing and limited opening of the proposed window would be acceptable. However, this would not be reasonable as it would harm the living conditions of future occupiers being the only window for this room.
14. As observed on my site visit, there are currently only oblique views from the first storey rear windows of the appeal property over the private outdoor space of no 4. Due to the proposed rear projection, and the inclusion of a Juliet balcony to the rear window, a greater degree of overlooking to the neighbouring property would be possible and the occupiers' privacy when using the outdoor space at no 4 would be compromised.

#### *Flounders House*

15. During my site visit I could see this lower lying property through the trees from the first floor rear window of the appeal property. SPG2 advises a separation distance of 21m between windows of habitable rooms. The Council estimates the distance of the proposed extension rear windows to Flounders House as 15m. In the winter it is likely that views will become more prominent when there are no leaves on the trees. This would allow overlooking and cause harm to the privacy of occupiers at Flounders House.
16. In conclusion, this proposal would harm the living condition of neighbours, due to the overbearing effect it would have on no 2, the loss of outlook and privacy affecting no 4 and the loss of privacy at Flounders House. This would be contrary to Saved Policies HO3 and HO12, the emerging Local Plan policy D3 and policy SD8. In combination, these policies seek adequate separation between buildings to retain existing residents' privacy and outlook.

### *Future occupiers*

17. The Council's SPG2 states that it is necessary to leave '*approximately two thirds of the plot*' as useable private amenity space. No dimensions for the outdoor space have been provided, but from my site visit, and the block plan submitted, useable amenity space remaining appears to be less than half the built footprint of the rear garden. The appellant draws my attention to the SPG on High Density Development: Flats and Apartments<sup>2</sup>, which allows shared amenity space assuming it is accessible to each dwelling, well-landscaped and its location and size enable it to be enjoyed by occupants. No detail regarding design, dimensions or access arrangements of the rear private outdoor space have been submitted and therefore I cannot conclude the proposal would meet this advice. Lack of suitable outdoor amenity space would fail to provide acceptable living conditions for future occupiers contrary to policy SD8 of the emerging Local Plan regarding '*privacy and amenity of ... future occupiers*'.

### *Change of use*

18. Provision of two separate apartments, with associated car parking, would result in increased activity which would be out of character with this property. The Council considers this a more intensive use and I share this view. Saved Policy HO6 supports conversion of '*substantial dwellings*' to provide flats, however this property does not fall within this category and does not accord with policy.
19. Policy HO6 also states that conversions should not have a detrimental effect on the character of the host building or wider area and should accommodate sufficient parking. Although sufficient parking would be provided, conversion relies on construction of a large extension. I have previously concluded that this would cause material harm to the character and appearance of the area and would therefore be contrary to this policy.

### **Other Matters**

20. The appellant draws my attention to the National Planning Policy Framework<sup>3</sup> (the Framework) which supports sustainable development. The proposed development would be contrary to paragraph 117 of the Framework in terms of ensuring safe and healthy living conditions due to its impact upon the living conditions of neighbours and future occupiers. It would also be contrary to paragraph 130 which seeks good design which improves the character and quality of an area. Overall it conflicts with the Framework.

### **Conclusion**

21. The above factors lead me to conclude that the proposed development would have an adverse effect on the character and appearance of the host property and wider area and on living conditions of neighbouring and future occupiers.
22. For the reasons above I dismiss the appeal.

*E Symmons*

INSPECTOR

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<sup>2</sup> 2005

<sup>3</sup> July 2018