



Appeal Decision

Site visit made on 2 February 2021

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 February 2021

Appeal Ref: APP/H0738/W/20/3262599

3-5 Cumbernauld Road, Thornaby TS17 9BD

- 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 Gurbachan Sandhu against the decision of Stockton-on-Tees Borough Council.
 - The application Ref 19/0969/COU, dated 27 April 2019, was refused by notice dated 6 July 2020.
 - The development proposed is described as Currently out of the 152sqm unit – only 71sqm is used as a general dealer/off licence store and approx 81sqm is storage area. Our proposal is to convert 49sqm of the storeroom into a hot food takeaway.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the proposed extraction flue on the character and appearance of the area; and
 - The effect of the proposed extraction flue on the living conditions of local residents with regards to noise and outlook.

Reasons

Character and appearance

3. The appeal site is a modern flat roofed three storey building with commercial use at ground floor and residential above and a rear service yard. It is set within a wider residential housing estate within an island of other similar residential development. The rear elevation is highly visible within the street scene due to its scale and the position of the other surrounding flat development.
4. The extraction flue ductwork is proposed to extend horizontally along the lower level of the building before extending vertically the full height of the rear wall towards the middle of the building, positioned between windows and set against an existing brickwork infill panel. The cowl would project above the flat roof. It would be a considerable scale, further pronounced due to its proposed galvanised finish.

5. Given the orientation of the building and its relationship with the other surrounding flats, the rear elevation is clearly seen from several public vantages. Its proposed attachment to this elevation, which remains largely unaltered, would appear as a prominent and incongruous addition. As a consequence of this projecting and uncharacteristic feature, it would result in harm arising to the character and appearance of the building, and to the street scene.
6. The appellant proposes to disguise the ductwork by shrouding it in brick effect panelling. However, the example of cladding provided would not sufficiently match the original brickwork and would emphasise its appearance rather than harmonise with the fabric of the building. Furthermore, there are no precise details of how this would be designed without adding uncharacteristic bulk to the rear of the building. Moreover, shrouding would be at odds with the galvanised extraction cowl that would be exposed by approximately 1m above the eaves level of the building.
7. Another form of ductless extraction system is suggested by the appellant, although no precise details are provided. I apply limited weight to both these options. Given the inadequate details presented, the use of planning conditions would not be appropriate to meet the tests of paragraph 55 of the National Planning Policy Framework (the Framework).
8. To conclude on this main issue, the prominence of the proposed extraction ductwork would lead to harm arising to the host building and to the character and appearance of the area, contrary to the Stockton on Tees Borough Council Local Plan (LP) Policy SD8 in its design aims, and the Framework that seeks development to achieve well designed places.

Living conditions

9. The residential flats have rear windows that overlook the service yard and residential spaces beyond. These windows are wide and serve a combination of kitchens, bedrooms and bathrooms. The extraction flue would be located close to windows serving habitable rooms.
10. There are noise abatement measures proposed to be installed to the plant equipment. Even with these measures, the Council's Environmental Health Unit confirms noise from the flue would be likely to arise.
11. I note the potential to use conditions to mitigate noise from plant. However, given the proposed extraction flue would share a close relationship with the windows of habitable rooms, and noise would inevitably be at an increased level into the evening, up until 2200 Monday to Saturday, and 2100 on Sundays when occupiers would be expecting a reasonable level of quiet, I conclude that there is insufficient information to demonstrate that the living conditions of occupiers would not be unduly compromised.
12. The outlook from existing rear windows is currently onto a residential environment. However, due to the flue's proposed scale, mass and finish, the outlook from windows, more particularly from habitable windows either side, would be compromised by a bulky extraction flue, consequentially reducing the living conditions of occupiers.
13. To conclude, as a result of the location of the proposed extraction flue, I have found harm to the living conditions of occupiers as a result of noise and

outlook. The proposal would be in conflict with the LP Policies SD8 and ENV7 for development to protect amenity of occupants and to minimise noise pollution, and the objectives of the Framework to achieve a high standard of amenity for existing and future users.

Other Matters

14. I have had sight of the petition in support of the proposal. However, even with this level of support, this does not overcome the harm I have identified.
15. Any concerns raised with regard to the Council's decision-making process should be referred to the Council for comment in the first instance and is not within my jurisdiction to comment.

Conclusion

16. For the reasons I have set out, the appeal is dismissed.

Alison Scott

INSPECTOR