



## Appeal Decision

Site visit made on 24 April 2019

by **P Eggleton BSc(Hons) MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 9<sup>th</sup> May 2019

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### **Appeal Ref: APP/R4408/W/19/3221848 79 Huddersfield Road, Barnsley S75 1AA**

- 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 Mrs C Lin against the decision of Barnsley Metropolitan Borough Council.
  - The application Ref 2018/1209, dated 30 July 2019, was refused by notice dated 23 November 2018.
  - The development proposed is an extension at rear and upper floors to form one self-contained maisonette above existing Class A5 retail premises.
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### **Decision**

1. The appeal is allowed and planning permission is granted for an extension at rear and upper floors to form one self-contained maisonette above existing Class A5 retail premises at 79 Huddersfield Road, Barnsley S75 1AA in accordance with the terms of the application, Ref 2018/1209, dated 30 July 2019, subject to the following conditions:
  - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Title Plan; and Plans and Elevations drawing 01C.
  - 3) The materials used in the construction of the external walls of the extension shall match those of the existing building. The covering of the new roof shall not commence until details of the materials to be used have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
  - 4) No development shall take place until a Coal Mining Risk Assessment report has been submitted to and approved in writing by the local planning authority. Any mitigation measures required by the report shall be carried out in accordance with the requirements of the assessment, prior to the first occupation of the residential accommodation.

### **Main Issue**

2. The main issue is the effect on the living conditions of future residents with regard to the size of the accommodation.
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## **Reasons**

3. The proposal would result in a rear extension to the upper ground floor of the commercial unit and the addition of a first floor above, with a hipped roof. The existing flue would also be extended. The new first floor would be used as a self-contained, one bedroom flat. The Council's only concern relates to the quality of the proposed residential accommodation.
4. It has been suggested that the flat would be used in association with the commercial unit below but as it would have its own separate front door and could be used independently, I have considered the proposal as a separate residential unit.

### *Living conditions*

5. The plans show an open plan lounge/kitchen to the front of the property. This would include a living area with a corner sofa illustrated. The room would have a window that would face the road and the open parkland opposite. A small kitchen and a separate dining table are shown at the other end of this room. A bedroom would be located to the rear. The plans illustrate a small double bed with bedside tables and a built in wardrobe. A small en-suite bathroom would provide a shower and toilet.
6. The flat would be small but the furniture layout suggests that residents would have adequate living space, albeit with very limited circulation space in the bedroom and minimal storage provision. The bathroom would also be small but would be entirely serviceable for a small household. The kitchen would be compact but with full height units with integrated appliances and a dual washing/drying machine, it could offer all necessary facilities. I am satisfied therefore that it could provide all the requirements of an independent unit of accommodation. It would be more suited to single occupancy but could accommodate a couple given the space within the bedroom and lounge.
7. The flat would have no outdoor space other than for bike and bin storage. Whilst space for the drying of clothes would not be available, outdoor recreation would be facilitated by the open parkland immediately opposite. Whilst the lack of a balcony represents a shortcoming of the design, I do not consider that this weighs heavily against the proposal in these particular circumstances. I agree with the Council that such limited internal space is far from ideal and would not be suited to a full range of occupiers. However, I am not satisfied that the living conditions of the residents would be unacceptable. The flat would offer good light and outlook and its location would provide easy access to a range of facilities and services.
8. The Council's decision notice refers to policy CSP29 of the Core Strategy 2011 which has been replaced by the Barnsley Local Plan 2019 (LP). Policy D1 refers to the need for high quality design to contribute to local character. This is a revised scheme and the design has been altered to ensure that the development would have a satisfactory appearance. The replacement of the flat roof of the commercial unit with a first floor with a hipped roof would be a positive feature of the proposal that would gain support from this policy.
9. The policy does include a requirement for accessible and inclusive environments for the users of buildings. It does not make reference to internal

or external standards. However, the limited manoeuvring space within the flat and the narrow stairs to the first floor would not allow for a full range of users as wheelchair accessibility within the accommodation could not be achieved. I find general support from the policy but I acknowledge that in this respect, there would be some conflict with its requirements.

10. Reference is also made to LP policy GD1. This includes 10 bullet points, the first of which seeks to avoid significant adverse effects on the living conditions and residential amenity of existing and future residents. Despite the lack of a balcony, I am satisfied that the accommodation would not result in significant adverse effects. The proposal does not conflict with the remaining bullet points of the policy.
11. The supporting text identifies that with regard to living conditions, the concerns of the policy generally relate to the impact of outside activities and the adequacy of light, outlook and landscaping. It makes no reference to internal space standards, although it does refer to the Council's Supplementary Planning Documents, including their document *Designing New Housing Development 2012 (SPD)*. The proposal would satisfy the policy's requirements with regard to the efficient use of land, privacy, the suitability of the local environment and the adequacy of daylight, sunlight and outlook. As the policy is clear that development will be approved if the requirements of the bullet points are satisfied, I find that it offers support for the proposal.
12. The development would provide a low cost housing unit in this accessible location, close to a range of shops and services. I find considerable support for the development from the housing and sustainability policies H4, H6 and SD1 of the Local Plan.
13. The accommodation would have shortcomings with regard to its inability to be adapted for use by a full range of users and the lack of outdoor amenity space would reduce its overall quality. In these particular circumstances, as there is no clear way to increase the space available, I consider that these concerns result in only very limited conflict with part of policy D1 and would gain considerable support from the other elements of that policy and also policies GD1, H4, H6 and SD1. As these policies generally accord with the amenity, housing and sustainability objectives of the *National Planning Policy Framework*, I afford them considerable weight.
14. Generally, the flat would provide a good standard of accommodation for a small household and the limited conflict with the amenity requirements of the development plan would be outweighed by the considerable support from the housing and sustainability policies. I therefore conclude that when taken as a whole, the proposal accords with the requirements of the development plan.

*Other matters*

15. The Council have made reference to local and national space standards. A national system of housing standards commenced in 2015, following the Written Ministerial Statement (WMS) Planning Update of March 2015. This represents Government policy on the setting of technical standards for new dwellings. Planning Practice Guidance (PPG) advises that where a local planning authority wishes to require an internal space standard, they should only do so by reference in their Local Plan, to the nationally described space standards.

These are the *Technical housing standards–nationally described space standard* (THS) 2015 (as amended in 2016). The recently adopted Local Plan does not make reference to these standards.

16. The Local Plan makes reference, in the supporting text, of the Council's SPD which pre-dates the WMS. The SPD covers a wide range of design issues but does not include its own internal space standards. It refers to standards set out in the South Yorkshire Residential Design Guide 2011 (DG) which similarly pre-date the WMS.
17. With regard to wheelchair accessibility the Government's *Housing: optional technical standards guidance*, within the PPG, advises that Councils should clearly state in their Local Plan what proportion of new dwellings should comply with the requirements. The DG advises that where the local planning authority has the appropriate adopted policies in place, a percentage of dwellings in all new development must be provided as wheelchair housing. Where there is no supporting policy, the standards should be achieved wherever feasible. I have been provided with no reference to such a policy or percentage within the Local Plan but do not anticipate that all new housing units would be required to achieve these standards.
18. There is dispute between the parties with regard to the calculated size of the unit. With regard to the THS, based on the Council's calculations, the overall size of the unit would fall just short of the minimum requirement for a one storey, one bedroom, one person unit. It would fall well short of the requirement of a two person unit. With regard to the Council's SPD and the standards of the DG, the proposal would fall short of the specified minimum areas with regard to the overall size of the flat and individual rooms.
19. The two rooms would be of good proportions as required by the DG and they would have good daylighting. The plans do show furniture in the rooms as required by the DG. The property would not satisfy the SGP or DG requirements for a private outdoor amenity area given that no balcony is proposed. It would satisfy the requirements with regard to cycle storage. Waste bins could be stored next to the cycles. The provision of wheelchair accessibility is not feasible but given the lack of clear policy requirements, I do not find conflict with the DG in this respect.
20. I have considered the correspondence from the neighbouring owner. The concerns were raised without the benefit of being able to view the plans. Further submissions were not received when clarification was provided by the planning officer. Access would be maintained to the neighbouring property through the undercroft and existing off road and on road parking would be sufficient for the additional accommodation.

### *Conclusions*

21. Overall, the proposal would provide a small unit of accommodation that would offer satisfactory living conditions for future residents. The limited amenity policy shortcomings would be far outweighed by the policy support for the provision of a new flat in this accessible location. Overall, the proposal would gain support from the development plan.

22. The *Framework* is clear that great weight should be given to the benefits of using suitable sites within existing settlements for homes and I find direct support from paragraph 118(e) which encourages the use of airspace above existing commercial premises. Apart from the reference to space standards and the lack of private outdoor amenity space, I also find general support from the Council's SPD.
23. In the absence of any policy direction, I afford very limited weight to the THS. As the space standards referred to in the SPD and set out in the DG are inconsistent with the THS and their use would be in conflict with the PPG, I afford these even more limited weight. As I have been provided with no reference to a development plan policy that refers to the required scale of provision of wheelchair accessible housing and as it would not be feasible to make this accommodation wheelchair accessible, given the nature of the existing property, I afford very little weight to the shortcomings in this regard. I do however afford weight to the lack of external amenity space which is in conflict with the SPD. However, I find that the proposal generally meets the requirements of the SPD in all other respects.
24. Overall, the conflicts with the THS, SPD and DG are not sufficient to outweigh the benefits of the proposal and the shortfall in outdoor amenity space and the shortcomings with regard to the size of the unit overall, do not suggest that a decision contrary to the development plan should be reached. As the benefits of the proposal clearly outweigh the concerns raised, I allow the appeal.
25. I have imposed conditions with regard to the commencement of the development and the details of the approved plans in the interests of certainty. I have required that the brickwork matches the existing and that the roof materials be agreed, to ensure that it would have a satisfactory appearance.
26. The Council have suggested a condition that would require that a Coal Mining Risk Assessment report be submitted. This is in response to the consultation from the Coal Authority who identified that the property lies within the defined Development High Risk Area. Their records indicate that within the application site and surrounding area there are coal mining features and hazards which need to be considered. They advise that if coal mining has taken place at a shallow depth, there is a risk that these workings could collapse and cause instability problems at the surface. They suggest that the proposed works could provide a trigger for these problems to occur.
27. Local Plan policy CL1 advises that proposals must be accompanied by such a report and the appellant has indicated that the suggested pre-commencement condition would be acceptable. Given the very limited requirement for additional foundations, I am satisfied that a condition requiring such a report at this stage, rather than as part of the submitted details, would be reasonable and necessary; and would meet the other tests set out in the *Framework*.

*Peter Eggleton*

**INSPECTOR**