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# Appeal Decision

Site visit made on 5 July 2016

**by Roy Merrett BSc(Hons) DipTP MRTPI**

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

**Decision date: 22 September 2016**

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**Appeal Ref: APP/W0734/W/16/3147918**  
**44 Westbourne Grove, Middlesbrough TS3 6EF**

- 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 Shabnam Khan against the decision of Middlesbrough Borough Council.
  - The application Ref M/FP/1412/15/P, dated 27 October 2015, was refused by notice dated 8 February 2016.
  - The development proposed is the demolition of existing building and erection of new dwelling containing 9 no. self-contained flats and associated boundary treatments.
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## Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing building and erection of new dwelling containing 9 no. self-contained flats and associated boundary treatments at 44 Westbourne Grove, Middlesbrough TS3 6EF in accordance with the application Ref M/FP/1412/15/P, dated 27 October 2015 and subject to the conditions in the schedule below.

## Application for costs

2. An application for costs was made by Mrs Shabnam Khan against Middlesbrough Borough Council. This application is the subject of a separate Decision.

## Main Issue

3. The main issue is the effect of the development on parking provision, the free flow of traffic and highway safety.

## Reasons

4. The proposal would incorporate parking space at the front of the site. Whilst nominally this would allow for five spaces, two would be constrained by parking immediately behind and as such are unlikely to be attractive for day to day use. The development would therefore accommodate convenient off-street parking for three vehicles.
  5. Balanced against this, from my visit I noted that the site is relatively well located in terms of proximity to local shops and services and it is undisputed by the parties that it has good links to sustainable travel opportunities. Accordingly the development is likely to attract some residents who do not own a car.
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6. Taking these factors into account, the proposal is likely to result in a small increase in demand for on-street car parking in the locality. Whilst there are designated and unrestricted parking bays on the opposite side of Westbourne Grove to the appeal site, they are likely to be taken up by existing residents. However, whilst daytime restrictions are in place (8a.m. – 6p.m.) it is possible to park along much of the northern side of Westbourne Grove including near to the appeal site outside these times.
7. Parking along this side of the street would, because of the modest width of the road, interrupt the free flow of traffic. However the form of the road in the vicinity of the appeal site is relatively straight therefore allowing for a good standard of driver visibility. Furthermore it was apparent from my visit that there are traffic calming measures in place on the road controlling the speed of traffic and encouraging greater driver care.
8. The highway footpath running adjacent to the front of the appeal site is relatively wide. From the photographic evidence submitted and from my visit, it is likely that this would encourage drivers to park partly on the footpath. Whilst this would reduce the potential for free flowing traffic being obstructed it would of course increase the risk of some obstruction along the footpath. However this effect would be mitigated by the generous width of the path and the likelihood of far fewer pedestrian movements overnight. Furthermore any obstruction caused to the road or path could be dealt with through traffic enforcement measures during the restricted daytime parking hours.
9. The appellant has made the point that it would be possible for use of the site as a church or other non-residential use such as a shop or day nursery to be resumed without the need for planning permission which in their view would result in greater car parking demand compared with the proposal.
10. I agree that such a fallback position would have the potential to cause more intense parking demand during the daytime than that associated with the proposed residential use. Notwithstanding this I have not been presented with evidence of any such current interest in the site and accordingly it would not be appropriate to afford this consideration significant weight in favour of the proposal.
11. The Council has raised the concern that if the adjacent vacant site were to be developed it would displace the informal car parking that currently takes place there onto the street which would serve to compound residential amenity problems. However again there is no evidence before me that the re-development of this site is imminent. On the contrary a previous planning permission for the site has recently lapsed. It would therefore be equally inappropriate to penalise the current proposal on the basis of a scenario that may not be realised in the near future.
12. I therefore attach limited weight to these considerations preferring to consider the current proposal on its own merits. I conclude for the aforementioned reasons that a small amount of additional on-street car parking likely to be generated by the development would be unlikely to significantly disrupt the free flow of traffic or result in harm to highway safety. In addition it is unlikely to mean that residents would be unable to park close enough to their homes such that a significant amenity problem would arise.

13. The development would therefore be in accordance with Policy DC1 of the Middlesbrough Core Strategy 2008 insofar as it seeks to safeguard highway capacity and safety and protect the amenities of nearby residents.

*Other Matters*

14. There have been two letters of objection to the original planning application from the owner and one of the occupiers respectively of the neighbouring building at 46 Westbourne Grove relating to the impact of the development on living conditions.
15. The side facing windows to the proposed building do not serve habitable rooms and could therefore be fitted with obscured glazing to prevent overlooking. Whilst the proposal would be very close to the side of No 46, the outlook from and light to windows in the side of that property at ground floor level are already adversely affected by the existing appeal building which is closer still. The Council assert, undisputed by the objectors, that the upper floor windows in the side of No 46 are either secondary or do not serve main habitable rooms and as such any impact on them should be afforded less weight. There is no information before me that would lead me to take a contrary view and accordingly I conclude that the proposal would not result in undue harm to the living conditions of adjacent residents.

**Conditions**

16. I have considered the conditions suggested by the Council. Conditions specifying the plans and details of the external materials are needed to safeguard the character and appearance of the area. A condition requiring drainage details is required to ensure the satisfactory drainage of the site. A construction management plan is required to protect the living conditions of local residents and in the interests of highway safety. A condition requiring windows to the east elevation of the building to be obscure glazed is necessary to prevent overlooking and to protect the living conditions of neighbouring residents.
17. I have amalgamated and made some minor alterations to the wording of some of the suggested conditions for clarification and to ensure they meet the tests for conditions as specified in national planning guidance. Conditions regarding materials, drainage and the construction method statement are specified as pre-commencement conditions as they are considered fundamental to the development permitted.

**Conclusion**

18. For the above reasons and having considered all other matters raised I conclude that the appeal should succeed and planning permission be granted.

*Roy Merrett*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development to which the permission relates shall be carried out in accordance with the following approved plans and specifications: SM001/2015.
- 3) No development shall commence until samples and details of the materials to be used in the construction of the external surfaces of the building hereby permitted 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) Prior to first occupation, window openings to the east elevation of the building shall have obscure glazing inserted which shall thereafter be retained.
- 5) Prior to the commencement of development a scheme for the disposal of foul and surface water from the site, to include a Sustainable Drainage System (SuDS) shall be submitted to and approved in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme prior to first occupation of the building.
- 6) No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall provide for temporary car parking to accommodate operatives and construction vehicles during the development of the site and measures to protect any existing footpaths and verges. The approved Construction Method Statement shall be adhered to throughout the construction period for the development.