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## Appeal Decision

Site visit made on 22 January 2019

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 31 January 2019**

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**Appeal Ref: APP/B3030/W/18/3214950**

**Balderton Working Mens Club and Institute, 69 Main Street, Balderton NG24 3NN**

- 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 K Roberts on behalf of Yorkhouse Properties Limited against Newark & Sherwood District Council.
  - The application Ref 18/01241/FUL, is dated 2 July 2018.
  - The development proposed is the retention of the north-western wing and the conversion to a dwelling including external alterations.
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### Decision

1. The appeal is allowed and planning permission is granted for the retention of the north-western wing and the conversion to a dwelling including external alterations at Balderton Working Mens Club and Institute, 69 Main Street, Balderton NG24 3NN in accordance with the terms of the application, Ref 18/01241/FUL, dated 2 July 2018, subject to the conditions set out at the end of this decision.

### Procedural Matters

2. I have taken the site address from the application form. I however acknowledge its reference to a previous occupation of the site. For clarification purposes, the appeal site forms part of the wider former Balderton Working Mens Club and Institute site and its extent is defined on the submitted location plan referenced BWMC0616-2000A.
3. From inspection, it would appear that the proposed external alterations to the north-western wing of the existing building are already in place. However, for the avoidance of doubt, my responsibility is to consider the appeal on the basis of the plans submitted.
4. The Council has helpfully annotated a site plan to clearly illustrate the numbering of the different residential units that occupy/are permitted across the wider site. This plan is appended to the Council's appeal statement as Appendix E. The numbering is broadly consistent with how individual units are referred to throughout the evidence before me. In the interests of ensuring clarity and consistency, for the remainder of this decision I shall refer to residential units on the site in accordance with the numbering set out in Appendix E of the Council's appeal statement.

5. Whilst both the main parties to this appeal have referred to an amended plan that was drawn up after the proposal was first reported to the Council's planning committee, I am of the understanding that this was never formally submitted for consideration during the determination of the planning application. For the avoidance of doubt and to ensure no one involved in the appeal is unfairly prejudiced, I shall consider this appeal on the basis of the plans that were considered by the Council.

### **Main Issues**

6. The main issue is the effect of the proposal upon the living conditions of its future and neighbouring occupiers, with particular regard to outlook and the provision of private garden space.

### **Reasons**

#### *Living conditions of future occupiers*

7. The appeal property (Unit 4) is located within a wider site once occupied by the Balderton Working Mens Club and Institute (the wider site) where planning permission (17/01339/FUL) is already in place to develop a total of 9 residential units, through the conversion of an existing building and the further construction of new-build dwellings. The proposal would essentially add a tenth unit to the previously approved scheme, through the retention of the north-western wing of the existing building. This 2 storey built element had previously been earmarked for demolition.
8. Unit 4 is located such that it has a close relationship with the north-eastern wing of the existing building (also 2 stories in height), which is also 2 stories in height and has been converted to form Unit 3. A hard-surfaced space is situated between Units 3 and 4, with approximately half of this area falling within the appeal site. On the opposite side of Unit 4, a further external area and the site's access road also form part of the appeal site. This external area contains an area intended for parking (a single space) and an enclosed patio area. The land situated to the west of the access road is currently undeveloped, but a single dwelling (Unit 5) is anticipated to be constructed here under planning permission 17/01339/FUL.
9. As indicated upon the floor plans submitted, all habitable rooms within Unit 4 are afforded outlook via window openings. The majority of these openings are located within its side elevation that faces over the site's access road, and include 3 large windows at first floor level with patio doors below. Unit 5 would be set far enough away such that outlook from Unit 4 would not be unduly restricted or impacted upon by its presence. I also note that a kitchen window faces over the space located between Units 3 and 4. Satisfactory outlook would be provided for future occupants.
10. The external areas contained within the appeal site are limited in size. The hard-surfaced space located between Units 3 and 4, although discreetly sited, is not private in the sense that it is not fully enclosed. This area is also afforded limited daylight due to its shielded location. Future occupants would be dependent upon the small patio area for enclosed private garden space. The patio's limited extent is not ideal, but it is served by a good standard of daylight and provides a space large enough to offer a useful amenity function for Unit 4's future occupiers. On the basis that Unit 4 is of modest size (it is a

2 bedroom property) and that other external areas exist within the appeal site (that are anticipated to be used for parking and bin/general storage), I am content that the enclosed patio area is of sufficient size and suitable layout to satisfactorily safeguard the living conditions of the proposal's future occupiers.

*Living conditions of neighbouring occupiers*

11. I have already found that outlook for future occupiers would not be unduly impacted upon by the anticipated future presence of Unit 5. Similarly, I do not consider that Unit 4's presence would have an undue adverse effect upon the outlook that would be available from Unit 5. The footprint of land covered by Unit 4 was envisaged, in accordance with planning permission 17/01339/FUL, to be clear of built development. Unit 4 is however slightly set back from the access road and is of similar scale to the remainder of the existing building, including the element of this building to which it is connected and the north-eastern wing that is set just behind it. In such circumstances, an overbearing or cramped relationship would not ensue.
12. The proposed retention of Unit 4 would have an effect upon the outlook available from Unit 3. However, the openings contained within Unit 3's side elevation that faces over the area located between Units 3 and 4 appear to be secondary in nature. Indeed Unit 3's opposite side elevation provides a number of large primary openings that face out over its own private garden area. Notwithstanding that the small hard surfaced space to the side of Unit 4 would be envisaged to be used for bin/general storage purposes, a satisfactory standard of outlook for the occupiers of Unit 3 is provided.
13. With respect to availability of private garden space, I note that Unit 3 is served by both a small hard-surfaced space (situated between Units 3 and 4) in addition to a private garden area on its opposite side which is of ample size and suitable layout to ensure that the living conditions of Unit 3's occupiers are safeguarded in this context.
14. With respect to the neighbouring residential unit to the south (Unit 1), whilst its private garden area is of narrow layout and situated solely to the side of the dwelling, it still provides a not insignificant area of garden for the private enjoyment of Unit 1's occupiers. Although not enclosed or private, I also note that a further open area of land is situated to Unit 1's frontage.
15. The main parties to this appeal dispute whether the proposed retention of Unit 4 would lead to a reduction in the areas of private garden space serving both Units 1 and 3, when compared to the scheme approved under planning permission 17/01339/FUL. Nevertheless, on the basis of the proposal before me, both Units 1 and 3 are served by appropriately sized and laid out private garden areas so as not to promote unduly cramped living conditions.
16. For the above reasons, the proposal would not cause harm to the living conditions of either its future or neighbouring occupiers, with particular regard to outlook and the provision of private garden space. The proposal accords with Policy DM5 of the Newark and Sherwood Local Development Framework Allocations and Development Management Development Plan Document (July 2013) in so far as it requires that the layout of development within sites and separation distances from neighbouring development should be sufficient to ensure that neither suffers from an unacceptable reduction in amenity including overbearing impacts, loss of light and privacy.

## **Other Matters**

17. The appeal proposal involves the retention of built form that is complimentary in form and design to the remainder of the existing building, no harm would be caused to the character and appearance of the Balderton Conservation Area therefore. Nor would any harm be caused by the proposal to the setting of a nearby Grade II Listed Building that is located to the east of the site.
18. The proposal does not represent over-intensive development, particularly when considering the spacious extent of the wider site, within which the appeal proposal is centrally located. I also note, in accordance with planning permission 17/01339/FUL, it is the intention for additional soft landscaped areas to be provided within the wider site.
19. The proposal involves the provision of a single car parking space and the Highway Authority has raised no objection. I am satisfied that this represents an appropriate level of provision to serve a dwelling of relatively modest scale. In addition, notwithstanding concerns raised by a third party to this appeal, I do not consider that the proposal would lead to any significant intensification in vehicle movements to and from the site so as to raise undue highway safety fears. Vehicle turning facilities are proposed to be retained and appropriate levels of visibility are available within the appeal site.
20. A discreet area available for the storage of bins is provided for within the appeal site (i.e. the hard surfaced space located between Units 3 and 4) such that the visual impact of any bins stored at the site would be expected to be minimal and acceptable.
21. I also note that a third party to this appeal has suggested that the appeal property has recently changed ownership. This would not however affect the planning merits of the appeal scheme before me.

## **Conditions**

22. The Council has suggested a number of conditions that the appellant has had the opportunity to comment upon and which I have considered against advice in the revised Framework and Planning Practice Guidance. As a result I have amended a condition restricting the future use of permitted development rights and have omitted a condition related to the implementation of an off-white rendered finish to the rear elevation of the appeal property (this is because, from inspection, I noted that such a finish had already been applied and therefore such a condition is not necessary).
23. In the interests of certainty, a condition specifying the approved plans is required.
24. As set out in the revised Framework, conditions restricting the future use of permitted development rights should only be used where there is clear justification to do so. In this instance the Council has suggested that a condition be attached that restricts the future use of a range of permitted development rights related to development within the curtilage of a dwellinghouse and other minor operations. I note that an identically worded planning condition was applied to planning permission 17/01339/FUL covering the wider site in the interests of preserving the character and appearance of the Balderton Conservation Area. To ensure consistency and clarity (particularly owing to the appeal site's approximate central position within the

wider site), I consider that there is clear justification to apply such a condition in this instance. It shall be similarly worded and shall restrict the future use of the same range and extent of permitted development rights, when compared to permission 17/01339/FUL.

### **Conclusion**

25. For the reasons set out above, the appeal is allowed and planning permission is granted.

*Andrew Smith*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: BWMC0616-2000A (Location Plan); BWMC0616-2003 (Proposed Site Plan); BWMC0616-2001 A (Existing Plans & Elevations); BWMC0616-2001 B (Proposed Plans & Elevations); BWMC0616-2004 A (Door & Window Schedule).
- 2) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), other than where expressly authorised by this permission, there shall be no development in respect of:
  - The enlargement, improvement or alteration of a dwellinghouse, including extensions to the property and the insertion or replacement of doors and windows;
  - The enlargement of a dwellinghouse consisting of an addition or alteration to its roof;
  - Any other alteration to the roof of a dwellinghouse;
  - The erection or construction of a porch outside any external door of a dwellinghouse;
  - Development within the curtilage of a dwellinghouse;
  - The provision or replacement of hard standing within the curtilage of a dwellinghouse;
  - The installation, alteration or replacement of a microwave antenna on a dwellinghouse or within the curtilage of a dwellinghouse;
  - The erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure;
  - Means of access to a highway; and
  - The painting of the exterior of any building.