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## Appeal Decision

Site visit made on 21 January 2019

**by A Parkin BA (Hons) DipTP MRTPI**

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

**Decision date: 31 January 2019**

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**Appeal Ref: APP/G4240/W/18/3214267**  
**29 Old Street, Ashton-under-Lyne OL6 6LA**

- 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 B.S Herian against the decision of Tameside Metropolitan Borough Council.
  - The application Ref 18/00628/FUL, dated 9 July 2018, was refused by notice dated 30 August 2018.
  - The development proposed is a conversion of first and second floor into 2 studio flats and new shop front on ground floor.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. The Council requested that I view the inside of the appeal building when I visited the site. However, the keyholder advised me that the interior had been damaged by a fire some time ago and the stairwell to the upper floors did not appear to be safe. No indication of this had been provided to me prior to my arrival at site. As a result I did not view the upper floors of the premises for reasons of safety. I advised the parties of this situation and sought their comments. The Council confirmed that it was not essential for me to view the interior upper floors of the appeal building. I have consequently determined this appeal on the basis of the submitted information.
3. The appellant notes that the Council found that the design and appearance of the proposed shop front was acceptable, but that no mention was made of it in its decision notice refusing planning permission. The appellant suggests that in these circumstances, the shop front should be granted planning permission, as a split decision if the rest of the appeal proposal is not found to be acceptable. I have considered this in my decision. However, the proposed shop front includes a doorway that would provide a separate access, via new stairs, to the upper floors, and would therefore have a bearing upon the layout of the upper floors for residential use. For this reason, the ground floor shop front is not severable from the proposed use of the upper floors, and in these circumstances a split decision would not be possible.

### Main Issue

4. The main issue is the effect of the proposed development on the living conditions of future occupiers, with particular regard to internal floorspace, natural light and ventilation.

## Reasons

5. There is no dispute concerning the principle of a residential use above a ground floor shop in an existing building such as this.
6. The proposed development would create a new shop front with a separate access to the upper floors of the building where two studio flats would be created. Studio Flat 1 would be located on the first and second floors and would contain two bedrooms at second floor level. It would have an internal floorspace of some 65sqm. Studio Flat 2 would be located on the first floor, extending into a rear outrigger and would contain a single bedroom. It would have an internal floorspace of some 42sqm.
7. There is disagreement between the parties over the number of potential occupiers of Flat 2. The appellant states that there would be one occupier, whilst the Council notes that the submitted drawings show a double bed, meaning that up to two people could be accommodated. There is no disagreement that Flat 1 would accommodate up to three people, and I note that the submitted drawings show a double bed and a single bed for Flat 1. On the basis of the information before me Flat 2 would be a flat for up to two people.
8. Both main parties refer to the Government's *Technical housing standards – nationally described space standard*<sup>1</sup> document (THS), which contains floorspace standards for different types and sizes of dwellings, accommodating specific numbers of people in a given number of bedrooms. The Council also refers to Policy RD18 of its Residential Design Supplementary Planning Document 2010 (RDSPD), which contains internal floorspace standards.
9. The Council refers to the Written Ministerial Statement (WMS) made in March 2015, which amongst other things addresses space standards. The WMS states *that Existing Local Plan, neighbourhood plan, and supplementary planning document policies relating to ...internal space should be interpreted by reference to the nearest equivalent new national technical standard*. However, compliance is only required where there is a relevant Local Plan policy. The Council refers to Policy RD18 of the RDSPD in this regard. However, the RDSPD is not part of the Council's Local Plan.
10. In light of the above, I have had appropriate regard to the floorspace standards in the THS. Proposed Flat 1 would be below the 70sqm specified by the THS for a 2-storey, 2-bed/3-person dwelling; proposed Flat 2 would be below the 50sqm specified by the THS for a single storey, 1-bed/2-person dwelling.
11. Whilst the floorspace figures are not determinative by themselves, I have had regard to them alongside the layouts of the proposed flats. In addition, beyond the kitchen areas, there is no evidence of built-in storage space within either of the flats. Consequently, freestanding storage units would be needed to meet the needs of the occupiers of the flats. The Council states that given the amount of floorspace would be below the minimum standards set out in the THS, the absence of built-in storage would compound the problem. In this case, and with reference to the proposed layouts, this would be likely to add to the unsatisfactory standard of the internal space, such that future occupiers would feel uncomfortable or cramped.

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<sup>1</sup> DCLG March 2015

12. Most rooms within the proposed development would have acceptable levels of natural light and ventilation. However, both flats contain a linear open-plan living area, including a kitchen, with only one window serving each. For Flat 1, the single window would be at one end of a rectangular-shaped open-plan area, and because of its size and position relative to the size and shape of the room, would provide adequate natural light and ventilation.
13. For Flat 2, the kitchen is angled away from, and at a different level to the single window in the lounge area, and there would therefore be little natural light or ventilation in the kitchen area. The appellant says that the size and shape of this kitchen area would mean that it would be used for 'functional purposes' rather than as a habitable space such as for dining. This explains what the consequences of the proposed layout would be for future occupiers, but does not address the harm that would be caused.
14. In my view, the proposed layout of Flat 2 would be unsatisfactory in terms of natural light and ventilation to the kitchen area, where future occupiers could be expected to spend a reasonable amount of time. Whilst ventilation could be improved through the use of extractor fans, no details are provided in this regard, and in any event, this would not address the issue of inadequate natural light.
15. For the reasons given above, the proposed development would adversely affect the living conditions of future occupiers, with particular regard to internal floorspace, and natural light and ventilation<sup>2</sup>. It would therefore conflict with Policy H10 (detailed design of housing developments) part a) of the Tameside Unitary Development Plan 2004, and with the National Planning Policy Framework 2018 (the Framework), in this regard.

### **Other Matters**

16. A previous application for three flats at the upper floors of the property was refused by the Council<sup>3</sup> and the current appeal proposal for two flats is said to have been developed in light of this decision. The appellant also states that the alternative to the current proposal would be to leave the upper floors vacant, or to provide a single 'oversized flat'. Notwithstanding these statements, I am only concerned with the proposal before me, which I have determined on its individual merits as set out above.
17. The appellant states that the proposal would be for social housing, which would be affordable and meet a local need, although no details have been provided in this regard. I have therefore had only very limited and non-determinative regard to this matter.
18. The appellant has drawn my attention to open spaces and parks in the vicinity of the appeal site, which future occupiers would be able to use for recreational activity. This would not overcome the harm to the living conditions of future occupiers that I have identified above.
19. The Council has acknowledged that they cannot demonstrate a five year housing land supply<sup>4</sup>. Consequently the presumption in favour of sustainable

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<sup>2</sup> Natural light and ventilation in relation to Flat 2 only

<sup>3</sup> Ref 18/00105/FUL

<sup>4</sup> Required under paragraph 73 of the Framework

development<sup>5</sup> is engaged. I note what the appellant says regarding the contribution of small developments to the housing supply. However, the benefits of a small increase in the housing supply would not outweigh the harm to the living conditions of future occupiers, as set out above.

20. In this case, the adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

### **Conclusion**

21. For the reasons given above, I conclude that the appeal should be dismissed.

*Andrew Parkin*

INSPECTOR

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<sup>5</sup> Paragraph 11 d) ii of the Framework