
Appeal Decision

Site visit made on 31st October 2016

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 18 November 2016

Appeal Ref: APP/X4725/W/16/3152064
56 Horbury Road, Wakefield WF2 8TU

- 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 Modhafar Al-Kazhrajji against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 15/02935/FUL, dated 17th December 2015, was refused by notice dated 29th February 2016.
 - The development proposed is the change of use from storage spaces to social rooms and retail, to accommodate the needs of tenants of Nos 52, 54 and 56 Horbury Road and a retail area for the Sun minimarket.
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Decision

1. For the reasons set out below, I dismiss the appeal insofar as it relates to the "social rooms"; and I allow the appeal insofar as it relates to the extension to the retail area for the Sun minimarket.

Main Issues

2. The main issues in this case are:
 - (a) the effect of the development on highway users including pedestrians, having regard to the level of on-site parking provision;
 - (b) whether the development would lead to an unacceptable risk of flooding;
 - (c) the effect of the development on the living conditions of neighbouring residents;
and, having regard to the foregoing:
 - (d) whether the ancillary residential accommodation is suitable for its intended purpose.

Reasons

Factual and procedural matters

3. As the development has already been carried out, retrospective planning permission is sought.
4. All of the changes of use which are the subject of this appeal relate to a single-storey extension to the side of No 56 Horbury Road that extends rearwards

abutting the north-east boundary of the site. I understand that the building was formerly used for storage, though the nature of that storage is uncertain.

5. The appellant's Design and Access Statement explains that the term "social rooms" used in the description of the development means living areas, providing space for kitchen facilities, TV and dining areas to serve the needs of the occupiers of the 11 bedsits already accommodated in 3 former houses, Nos 52, 54 and 56 Horbury Road. The rooms do not themselves comprise individual residential units, but they provide accommodation which is ancillary to the existing units. The Council expresses some concern about the true nature of the proposal, in that the layout would potentially allow each room to function as a separate planning unit. Nevertheless, the application was assessed on the submitted basis; and I shall do the same.
6. The areas edged red and blue on the application plans (respectively representing the site of the development and other land in the ownership or control of the appellant) are inconsistent. At the site visit, the appellant's agent indicated that the correct plan is Plan 9 (block plan), which shows the site including the single-storey extension; No 56 Horbury Road; and part of the yard behind No 56. That part of the yard shows a single parking space. 3 other adjoining parking spaces are shown illustratively in the yard, but within the blue-edged land.

Highway safety

7. There is some dispute between the parties as to whether the present parking provision is adequate, or could be made so, taking account of the existing residential and retail uses. A large proportion of the rear yard is presently occupied by a sizeable canal boat, which also blocks the access way, so effectively there is no off-street parking provision at all. I understand that the appellant intends to remove the boat, potentially releasing space for parking. He says that 11 spaces could be provided, but no layout has been submitted to demonstrate this. The plans show 4 spaces, with just one within the appeal site.
8. The Council takes the view that there is a lack of on-site parking to serve the development and that this would lead to vehicles being parked on Horbury Road and Co-operative Street. In its view, this would be to the detriment of pedestrian and highway safety and would fail to ensure the safe and free flow of traffic within the development and on the surrounding highway network, contrary to Policy D14 of the Council's Local Development Framework (LDF). Its highway officer has not commented on the proposal, though an earlier application - that increased the number of residential units - was not supported. As that lack of support was in connection with a different form of development, it is not relevant to the present case.
9. The Council has not provided any evidence to support its assertions about the severity of the consequences for highway safety. In my estimation, as the development as proposed does not increase the number of residential units on the wider site it would be unlikely to lead to any significant increase in demand for parking spaces. Similarly, the small extension to the shop would not be likely to give rise to any substantial increase in customer parking or deliveries. In my opinion the present proposals do not justify the provision of additional parking. Moreover, it would not be appropriate within the context of this

appeal to require additional parking to be provided in order to rectify any perceived existing inadequacies.

10. I conclude that the development would not give rise to any significant impact on the safety of the highway or its users, including pedestrians.

Flood risk

11. The site is located in flood zone 3a, where there is a high probability of flooding. Although in accordance with Policy D24 of the LDF Development Policies Document the application form says that an appropriate flood risk assessment (FRA) will need to be submitted if the site is within an area at risk of flooding, none was submitted with the application. The appellant has offered to prepare a FRA, but has not done so.
12. As the proposal does not involve the creation of any new buildings, it may be reasonable to suppose that it would not result any increase in physical flood risk either on the site or elsewhere. However, part (f) of Policy D24 requires a sequential approach to be taken to site layout to ensure that the most vulnerable aspects of a development are sited on the lowest risk areas of the site and the least vulnerable are sited on the highest risk areas. In my view, the use of a single-storey building for (ancillary) residential purposes is contrary to that principle, as arguably the use of the building for that type of accommodation is more sensitive to the effects of flooding than the former use for storage.
13. I conclude on this issue that the development fails to comply with the detailed provisions of the policy, in that a FRA has not been submitted; and with its purpose, as it could result in ancillary residential accommodation becoming flooded.

Living conditions

14. It is clear from the Council officer's report that reference to Policy D19 of the LDF in the second reason for refusal is in error, and that the relevant policy is D9(k). This states that proposals should have no significant detrimental impact on the amenity of neighbouring users or residents and existing or prospective users.
15. The rear wall of the single-storey extension to No 56 is on the boundary with land occupied by flats that take access from St Michael's Road and includes the principal windows to the "social rooms". A corner of the closest block of flats is somewhat less than 5 metres from the wall; and oblique, though clear, views are obtainable from the rooms towards ground floor windows in that building at distances – measured at the site visit – of around 5.8 and 6.5 metres. At the time of the visit, I could not tell what type of rooms are served by these closest windows, as they were fitted with blinds. But they are clear glazed and therefore have the potential to serve habitable rooms. I consider that the proximity of the buildings creates the potential for significant loss of privacy both in the flats and in the rooms through mutual overlooking.
16. I acknowledge that intervisibility between the windows could effectively be prevented by requiring the windows to the social rooms to be fitted with obscure glass and fixed shut. This could be ensured by way of a planning condition. I do not believe that this would result in any great reduction in natural light, as the Council believes. However, it would diminish the extent

and quality of the outlook from the rooms, which would be restricted to views from small windows overlooking the yard.

17. I conclude on this issue that it would be possible to overcome the potential for loss of privacy for the occupiers of the flats and the rooms. However, this would be at the expense of providing a poor quality environment for the users of the rooms.

Suitability of the accommodation

18. I do not doubt that the occupiers of the 11 bedsits gain some benefit from the availability of extra shared space within the 3 "social rooms", which provide sitting / recreational and dining space additional to the limited accommodation in the bedsits; and a greater choice of bathrooms and places to cook.
19. However, in my view these rooms provide very poor accommodation. By reference to the other main issues I have identified, I have concluded that they may be susceptible to flooding, contrary to Policy D24. They would also provide a very unattractive residential environment, owing to the need for the main windows to be obscure glazed, combined with the limited and unattractive outlook over the yard. In the words of Policy D9, that would be detrimental to the amenity of existing or prospective users and would fail to provide a quality setting within the development.
20. Although not raised by the Council or forming a separate reason for refusal, I also consider that in functional terms the rooms are poorly related to the bedsits which they are supposed to serve, 10 of which are on the first or second floors of the former houses. They are inconveniently located on a different level and may be accessed only by going outside through an unattractive yard. This adds weight to my earlier conclusions concerning the unsuitability of the rooms for use as ancillary residential accommodation. I take the view that the development is an example of poor planning as the accommodation is not suitable for its intended purpose. I regard that as unacceptable.

The retail extension and overall conclusions

21. In contrast to the ancillary residential accommodation, no specific objections have been raised by the Council to the conversion of a small part of the building to provide an extension to the shop and a staff toilet. I see no reason to oppose it. As it is physically and functionally severable from the residential component of the development it is open to me to issue a "split decision" on the appeal, allowing that part, but dismissing the other. I therefore allow the appeal relating to the retail element, but dismiss it with respect to the remainder.
22. The Council has suggested a number of conditions which in its view should be imposed in the event that the appeal is allowed. All are relevant only to the residential component of the proposal and cannot be justified by the small scale of the retail extension. I therefore grant permission unconditionally

Jonathan G King

Inspector