
Appeal Decision

Site visit made on 14 August 2017

by David Cross BA (Hons), PGDip, MRTPI

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

Decision date: 6 September 2017

Appeal Ref: APP/X4725/W/17/3174816
8 Sagar Street, Castleford WF10 1AF

- 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 Mohammed Yasin against the decision of City of Wakefield Metropolitan District Council.
 - The application Ref 16/01251/FUL, dated 11 April 2016, was refused by notice dated 7 November 2016.
 - The development proposed is retail unit with flat over.
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Decision

1. The appeal is allowed and planning permission is granted for retail unit with flat over at 8 Sagar Street, Castleford WF10 1AF in accordance with the terms of the application, Ref 16/01251/FUL, dated 11 April 2016, subject to the conditions in the attached schedule.

Procedural Matter

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.

Main Issue

3. The main issue in this appeal is the effect of the proposal on the living conditions of residents of 8 Sagar Street with particular reference to light and ventilation.

Reasons

4. The appeal site is an open plot of land to the side of 8 Sagar Street. No 8 consists of a retail unit on the ground floor with accommodation above. The appellant states that the first floor of No 8 has been used for offices or storage. However, the Council state that the most recent planning permission for the site specified that the first floor was in residential use. No substantive evidence has been provided to me that the lawful use of the first floor has changed from residential use, and I have assessed the proposal on that basis.

5. Photographs submitted by the Council show that there were windows at first floor level on the side elevation of No 8 which contributed to the illumination and ventilation of the upper floor of that property. The appellant states that planning permission is not required to close these windows, and I saw that these had been removed and bricked up at the time of my site visit.
6. I saw that the residential accommodation on the first floor would most likely consist of a 1-bedroom flat, with a bedroom to the front of the property and a kitchen/living area to the rear. One of the blocked up side windows would serve the bedroom, although I saw that a window retained on the front elevation provided ample natural light and ventilation for that room.
7. In relation to the open plan kitchen/living area to the rear, the kitchen area is directly adjacent to a window on the rear elevation which also provides illumination for the living area. The removal of the side window serving this room would reduce the amount of light reaching the living area, however due to the limited depth of the room I consider that the levels of light provided by the window to the rear would provide a suitable amount of natural light for residents of the flat. Whilst the outlook from the window is limited by the walls of properties to the rear, there would be a suitable separation distance from neighbouring properties to enable natural light to reach the window. I also saw that the window could be opened to provide ventilation.
8. Therefore, whilst the removal of the side windows would reduce the levels of light and ventilation to the first floor of No 8, and in particular the living area of the flat, I do not consider that this would be of a degree to warrant the refusal of planning permission.
9. I conclude that the proposal would not harm the living conditions of residents of No 8 in respect of light and ventilation. The proposal would therefore not conflict with Policies D9 and D10 of the Wakefield Metropolitan District Local Development Framework Development Policies 2009 in respect of the amenity of neighbouring users or residents. The proposal would also not conflict with the provisions of the National Planning Policy Framework with regard to seeking a good standard of amenity for all existing and future occupants of land and buildings.

Other Matters

10. I have had regard to the objection raised locally in relation to traffic levels arising from the proposal. However, due to the town centre location and the limited extent of the development, I consider that any cumulative increase in vehicle movements as a result of the proposal would be very small. In the context of the extent of the overall traffic movements and supply of car parking in the area, any effect on highways matters arising from the proposal are likely to be very limited and would not be of a degree that should lead to the development being refused planning permission. I also note that the Council's Highways Development Officer has not objected to the principle of the development, subject to details in relation to waste storage.

Conditions

11. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance and retained

Annex A (model conditions) of former Circular 11/95: Use of Conditions in Planning Permission. As a result, I have amended some of them for clarity.

12. In addition to the standard 3 year time limitation for commencement, a condition requiring the development to be carried out in accordance with the submitted plans is necessary to provide certainty. Conditions in relation to the submission of details of materials prior to the commencement of development and the control of shutters on the front elevation are required in the interests of character and appearance. Conditions in relation to the submission of details of noise insulation prior to the commencement of development and the trading hours of the shop are required to protect the living conditions of future residents. A condition in relation to the submission of details of waste storage prior to the occupation of the development is required in the interests of amenity and the character and appearance of the area.

Conclusion

13. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

David Cross

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan, Side Elevation, Block Plan, and Proposals Development adj 8 Sagar Street.
- 3) No development shall commence until details of the materials to be used in the construction of the external surfaces of the development 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) Construction work shall not take place until a scheme for protecting the proposed flat from noise from the ground floor shop shall have been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the flat is occupied and retained thereafter.
- 5) Full details of refuse and waste storage shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details, be fully implemented prior to the first occupation of the development hereby permitted and shall be retained thereafter. No residential or commercial waste or recycling bins shall be stored in the frontage of the property at any time, except for refuse collection purposes.
- 6) No external shutters (including roller shutters) shall be installed on the front windows or doors without the submission to the local planning authority and subsequent approval in writing of the local planning

authority of details of the colour, material, extent of transparency, and the fixing mechanism.

- 7) The ground floor shop shall only be open for trade between the following hours:
09:00-20:00 Mondays - Saturdays
09:00-17:00 on Sundays and Bank Holidays.

End of Schedule