



Appeal Decision

Site visit made on 29 July 2019

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th August 2019

Appeal Ref: APP/N4720/W/19/3220724

23-27 Ash Road, Headingley, Leeds LS6 3JJ

- 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 Tim Watts against the decision of Leeds City Council.
 - The application Ref 18/06532/FU, dated 15 October 2018, was refused by notice dated 17 December 2018.
 - The development proposed is alterations including three storey rear, two and single storey side extensions, rear dormer windows and Juliet balconies to ground and first floor rear elevations to form six flats.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The site edged red location plan includes Nos 23-27 Ash Road. Consequently, I have included these properties in the site address in my formal decision, rather than the address used on the application form.
3. The proposed development changed during the application process. Neither of the main parties has objected to the amended description used in the banner heading above, which is slightly different to the description contained on the application form and the decision notice.
4. Since refusing planning permission for the appeal development, the Council has selectively reviewed its Core Strategy, with the updated document being adopted in June 2019. The review added policy H9 to the Core Strategy, which concerns minimum space standards. The appellant was provided with this policy, and its context, and invited to make comments with regard to this appeal. No comments were received within the specified timescales.

Main Issues

5. The main issues are the effect of the proposal on:
 - the living conditions of future occupiers, with particular regard to the internal space of the flats and to outdoor amenity space
 - the living conditions of future occupiers of the basement flats, with particular regard to natural light, outlook, and outdoor amenity space
 - the living conditions of future and nearby occupiers in terms of car parking provision, and highway safety.

Reasons

6. The appeal site contains a pair of semi-detached houses, with a 2-storey side extension on the eastern side, central rear outriggers and front and rear garden areas. The existing building contains 3 flats and has one off-street car parking space to the west of No 27. The appeal development would entail significant alterations to the existing building and gardens to create 6 new flats.
7. Ash Road is a largely residential street, with flats to the east of the appeal site and houses on Derwentwater Terrace to the west. To the rear, and part of a wider site owned by the appellant, is a surface car park to which a number of commercial units on North Lane and Ash Road back on to.

Internal space standards

8. The Government published a Written Ministerial Statement on 25 March 2015, which amongst other things, set out its national planning policy on the setting of technical standards for new dwellings.
9. The Government's technical housing standards¹ (THS) include internal space standards. Policies requiring internal space standards for new developments may be included within the development plan for an area. However, they should only do so by reference to the nationally described space standards contained in the THS².
10. Policy H9 – Minimum Space Standards of the Leeds Core Strategy November 2014, with Selective Review Changes June 2019 (LCS) is consistent with the THS and I have had regard to the standards it contains.
11. The proposed room sizes would meet the space standards contained in Policy H9 should the bedrooms be single occupancy rooms. I note the Council's concern regarding occupancy levels in the proposed bedrooms. However, from the evidence there is no indication that the proposed rooms are intended for greater than single occupancy.
12. Consequently, the proposed development would provide adequate living conditions for future occupiers in terms of the internal space of the flats and would not, therefore, conflict with Policies H6 (flat conversions) and H9 of the LCS in this regard.

Outdoor amenity space

13. The Neighbourhoods for Living Supplementary Planning Guidance 2003 (SPG) suggests that private outdoor amenity space for developments such as is proposed should be around a quarter of the gross floorspace for the site. It is not disputed that in quantitative terms the proposal would accord with this requirement.
14. However, the front gardens would be small and next to the bin storage areas and would have little privacy from users of Ash Road. The areas to the side and rear of the building are narrow and would serve as a means of access to flats 23A, 23B and 27A; to the rear cycle storage area; to the gate to the rear car park; and, to the rear of the next door flats.

¹ Technical housing standards – nationally described space standard 2015

² Planning Practice Guidance (PPG) Paragraph: 018 Reference ID: 56-018-20150327 Revision date: 27 03 2015

15. I will deal with the two basement flats, which have their own sunken garden space, in the next section. However, the communal outdoor space for the remaining flats would have a similar function to private garden space. It is an area for residents to use for various purposes, including sitting-out and relaxing.
16. The design and position of the proposed communal amenity space would not be adequate for future occupiers to use for the purposes that such spaces are typically intended. Notwithstanding the current site conditions, the urban nature of the area, or the appellant's comments regarding how future occupiers may choose to use the space, in my view the proposal would not promote well-being or achieve a high standard of amenity³, in this respect.
17. The appellant refers to other similar developments nearby with comparable or less outdoor amenity space. However, these developments are not the subject of this appeal, which I have determined on its individual merits.
18. For these reasons, the proposal would provide inadequate outdoor amenity space, and would conflict with saved Policy GP5 (general development requirements) contained in the Leeds UDP Review 2006 (LUDPR), with the SPG and with the Framework, in this regard.

Basement flats

19. The proposal involves the creation of two 1-bedroom basement flats at the rear of the building, which are accessed via steps from the communal outdoor space at ground level to sunken courtyard gardens.
20. These two flats have a similar layout and are largely positioned below the exterior ground level, with consequently limited outlook and reduced natural light. The sunken courtyard gardens are topped by fencing, which would further limit the outlook and restrict natural light into the flats. A timber vertically panelled fence with brick pillars forms the boundary between the curtilage of the building and the surface carpark to the rear, which would be likely to constrain outlook further still.
21. Notwithstanding the small size of the flats and their south facing aspect, it is likely that the rear areas, away from the windows and glazed doors, would receive less than satisfactory levels of natural light as a result of their position and nearby fencing. The outlook from the basement flats and sunken gardens would be very limited also as a result of their predominantly below-ground position and surrounding fencing.
22. There is no substantive evidence before me regarding the status of different rooms as 'habitable rooms'. I therefore give the appellant's comments regarding bedrooms, bathrooms and kitchens very limited weight in this regard.
23. I note the layout of the existing basement rooms and that the natural light they receive and the outlook occupiers would enjoy are significantly less than the proposed arrangements. Nevertheless, and irrespective of the absence of any specific policy metrics concerning basement flats, or any objections from the Council's Housing or Environmental Health Services, the proposed

³ Paragraph 127 f) of the National Planning Policy Framework 2019 (the Framework).

arrangements would not provide satisfactory living conditions for future occupiers with regard to natural light and outlook.

24. Therefore, for these reasons, the proposal would conflict with Policies P10 (design) and H6 of the LCS, with Policy GP5 of the LUDPR, with the SPG and with the Framework, in this regard.

Car parking provision and highway safety

25. The evidence shows that the existing development comprises three flats with a total of 13 bedrooms. The application form indicates that there is one existing off-street car parking space.
26. The proposal would dedicate four car parking spaces in the surface car park to the rear of the property, for the sole use of future occupiers of the appeal development, with access from the property via a gate. The car park is owned by the appellant and there is no evidence before me that indicates that such action would not be possible.
27. The proposed development would have the same number of bedrooms as the existing building, albeit split into 6 flats rather than 3. No substantive evidence has been provided concerning current occupancy rates for the surface car park, which is a pay-and-display facility, or that allocating four spaces for future occupiers and thereby reducing those available for public use, would be likely to increase on-street parking in the area. Given the appeal site is in a sustainable location in terms of access to public transport and local amenities, the use of four spaces in the surface car park as proposed would be acceptable in terms of car parking provision.
28. However, the proposal also seeks to retain the existing car parking space, although the area would be reduced by the construction of the single storey extension to the west of the building. This would result in a length that the Council's Highways service considers to be sub-standard, and which would lead to vehicles protruding into the footpath on Ash Road.
29. Whilst the appellant states that certain makes and types of car could be accommodated on the retained space without extending over the footway, there is no means for requiring future occupiers to use such compliant vehicles. Consequently, the risk to the obstruction of the footway from parked vehicles is significant, and such an obstruction would cause unacceptable harm to highway safety⁴ here, by disrupting pedestrian movement along the footway.
30. The appellant has suggested that the retained parking space could be converted to landscaped amenity space and that this could be controlled by way of a planning condition. Government guidance is clear that the appeal process should not be used to evolve a scheme, and that *if an applicant thinks that amending their application proposals will overcome the local planning authority's reasons for refusal they should normally make a fresh planning application*⁵. I have determined this appeal on the basis of the scheme that was refused planning permission by the Council.
31. Notwithstanding the proposal to use four car parking spaces in the surface car park to the rear would be acceptable, the proposed parking space to the west

⁴ Paragraph 109 of the Framework

⁵ Procedural Guide Planning appeals – England, 19 March 2019 – Paragraph M1.1

of the appeal building would be harmful to highway safety and would therefore conflict with policies T2 (accessibility) of the LCS and GP5 of the LUDPR in this regard.

Planning Balance

32. The proposed development would not adversely affect the living conditions of future occupiers with regard to internal space standards. However, the harm to the living conditions of future occupiers in terms of inadequate outdoor amenity space; inadequate natural light and outlook for the occupiers of the proposed basement flats; and for future and nearby occupiers in terms of car parking provision and consequent harm to highway safety, would outweigh this.
33. However, the appellant states that the Council cannot demonstrate a deliverable 5-year housing land supply (with the appropriate buffer)⁶ and the Council has not disputed this.
34. The Government's 2018 Housing Delivery Test Measurement (HDT) shows that Leeds City Council has delivered 96% of its housing requirement over the latest 3-year period, 7,581 dwellings, meaning that only a 5% buffer would be required⁷.
35. The appellant has not substantiated their statement concerning the 5-year housing land supply and there is no information before me regarding the extent of any shortfall. Given the HDT figures, any shortfall has not significantly affected the delivery of new homes in recent years and the provision of three additional dwellings carries only limited weight in favour of the proposal.
36. The appeal site is not subject to policies in the Framework that protect areas or assets of particular importance⁸. Consequently, were I to accept that the Council does not have a deliverable 5-year housing land supply, paragraph 11 d) ii) of the Framework, concerning the presumption in favour of sustainable development, would be engaged⁹.
37. The proposal would conflict with Policy GP5 of the LUDPR and with Policies P10, H6 and T2 of the LCS. These policies are generally consistent with the Framework, and I therefore give these conflicts weight.
38. The Framework sets out three overarching and interdependent objectives for the planning system in terms of sustainable development: economic, social and environmental. It goes on to state that *these objectives should be delivered through...the application of the policies in this Framework*.
39. The proposed housing development on an accessible site, close to nearby shops and amenities, would be supported by policies in the Framework. In particular, policies to increase the supply of housing, support economic growth, promote sustainable transport and support the vitality of centres.
40. However, the inadequate outdoor amenity spaces, the lack of meaningful outlook and natural light at the basement flats and the harm to highway safety from the size of the parking space by Ash Road means that there would also be

⁶ Paragraph 73 of the Framework

⁷ Footnote 39 of the Framework

⁸ Footnote 6 of the Framework provides a complete and exhaustive list of such policies

⁹ Footnote 7 of the Framework

conflict with Framework policies that promote sustainable transport, support the effective use of land, promote healthy and safe communities, and achieve well-designed places.

41. Even if I were to conclude there is a shortfall in the 5-year housing land supply as suggested by the appellant, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, the proposal would not constitute sustainable development with regard to paragraph 11 d ii) of the Framework.
42. The proposed development would conflict with the development plan and there are no material considerations that would cause me to determine this appeal other than in accordance with the development plan for the area. Consequently, with reference to Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be dismissed.

Other Matters

43. I note the appellant's comments regarding the Council's views on the principle of the development and its desire to improve the quality of the existing accommodation. I also note the appellant's comments regarding the Council's references to conflicts with policies in the development plan. These matters do not cause me to reach a different conclusion in relation to this appeal, as set out above.

Conclusion

44. For the reasons given above, and taking into account all matters raised, I conclude that the appeal is dismissed.

Andrew Parkin

INSPECTOR