



Appeal Decision

Site visit made on 3 December 2019

by R Cooper BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th January 2020

Appeal Ref: APP/N4720/W/19/3236870

Middleton Methodist Church, Hopewell View, Middleton, Leeds LS10 3TE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Just Design Homes against the decision of Leeds City Council.
 - The application Ref 19/01639/FU, dated 14 March 2019, was refused by notice dated 16 August 2019.
 - The application sought planning permission for the change of use of former Church and hall to form 9 flats, including external alterations and partial demolition of ancillary buildings and on-site parking without complying with a condition attached to planning permission Ref 16/01480/FU, dated 17 February 2017.
 - The condition in dispute is No 2 which states that:
 - 2) The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule.
 - The reasons given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposed variation of condition 2 on the living conditions of the occupiers of the appeal property with regards to outlook and light; the living conditions of occupiers of the neighbouring dwelling at 21 Staithe Avenue with regard to privacy; and on the character and appearance of the area.

Procedural Matters

3. The application subject to this appeal is made under Section 73 of the Planning Act for the variation of a condition to make minor material amendments. This type of application is possible as a condition was imposed on the original permission specifying that the development shall be carried out in accordance with the schedule of plans attached to the decision. The appeal seeks the removal of the condition and to replace it with a condition specifying the plans that reflect the amendments to the development.
4. During my site visit I entered flats 6, 7 and 8, and the amendments sought to these flats through the appeal appeared to have been implemented, and the flats occupied. However, the extent to which the works had been completed on

site was unclear. Therefore, I have made my decision based on the submitted plans that accompany this appeal. These are the same plans as those on which the Council made their decision.

Reasons

Living Conditions of Occupiers

5. The amended proposals for Flat 6 are to increase the bedroom numbers from 3 to 4, and to have a second combined kitchen and living room to the front of the property. Planning permission 16/01480/FU proposed one large combined kitchen and living space which had four windows on the front elevation of the building providing natural light and outlook, as well as one obscure glazed window to the rear of the building, on the east facing elevation.
6. The amendments to the layout of flat 6 result in a kitchen and dining room at the rear of the property being served by a single obscure glazed window on the east facing elevation of the building. This window is modest in size compared to the floor area of the room which it serves. The kitchen is arranged so that the work tops and sink run along the wall beneath the window, the dining area being set back into the room which receives limited natural light. Given the habitable nature of the room, occupiers are likely to spend a significant amount of time in there, therefore the poor levels of natural light, and the absence of any outlook is harmful to the living conditions of the occupiers.
7. Furthermore, bedroom 4 in flat 6 is also served by a single obscure glazed window on the east elevation, providing no outlook for the occupants. I understand that the window was previously considered by the Council in application 16/01480/FU (shown as serving bedroom 3 of flat 6). Whilst I appreciate some allowances need to be made in the conversion of period properties, this does result in poor living conditions to the occupants of bedroom 4. Consequently, the overall living conditions provided to occupiers of flat 6 are considered to be unacceptable.
8. The amendments to the layout of flat 8 result in a combined kitchen, dining and living room, to the rear of the property, that is served by two obscure glazed windows, on the east facing elevation of the building. The room provides the primary living space for the occupiers of flat 8, combining cooking, dining and a living area where residents socialise and watch television. Therefore, the room is likely to be well used by the occupiers. These windows are low level and relatively small compared to the size of the room they serve. During my site visit I was able to see how the lower sills of these windows are just above the floor level. The low level and obscured glass restricts the amount of natural light into the room and provides no outlook. I consider the degree of natural light and absence of any outlook result in poor living conditions for its occupiers.
9. The amendments to the layout of flat 7 have resulted in bedroom 2 now being positioned on the first floor to the rear of the building. This is also served by a single low level obscure glazed window on the east elevation. This provides no outlook, and its low level restricts the amount of natural light to the room, resulting in unacceptable living conditions for its occupiers. These amendments result in unacceptable living conditions to the occupiers of flat 7.

10. For these reasons, I conclude that the revised layout and fenestration would fail to provide suitable living conditions for the occupants of the flats, and the proposals do not accord with Policy P10 of the Leeds Core Strategy (2014) and Saved Policies GP5 and BD5 of the Leeds Unitary Development Plan (2006), insofar as they relate to the quality of life and wellbeing with regards to the living conditions of the occupants of the development.

Living Conditions of Neighbour

11. Planning application 16/01480/FU included a 2m high boundary wall separating the appeal site from the rear garden of 21 Staithe Avenue. However, the appellant now seeks approval of a 1.8m high fence instead. The boundary fence provides a screen between the pedestrian access and the adjacent occupiers garden. At 1.8m, the fence does provide a good level of privacy, from residents walking at ground level adjacent to the fence. However, the door to flats 6 to 8 is at a raised level and is accessed via a ramp. Whilst the additional 20cm would provide some increased screening, this would be very marginal, and given the elevated level of the entrance door to flats 6 to 8, the 1.8m high fence would not cause any material reduction in privacy compared to the 2m high wall, which was previously approved.
12. For these reasons, I conclude that the revised boundary treatment provides an acceptable level of privacy, and the proposal accords with Policy P10 of the Leeds Core Strategy (2014) and Saved Policies GP5 and BD5 of the Leeds Unitary Development Plan (2006), insofar as they relate to the quality of life and wellbeing with regards to the living conditions of occupants of neighbouring properties.

Character and Appearance

13. The appeal site is a former Methodist Church, the building is predominantly brick built, and externally possesses an ecclesiastical character and appearance. The surrounding area is residential in character, with a mix of two storey terraced and semi-detached houses, and bungalows.
14. Planning permission 16/01480/FU included the erection of a 2m high brick wall to the rear of the building, on the shared boundary with 21 Staithe Avenue. However, the appellant seeks to amend this to a 1.8m high close boarded fence with concrete posts.
15. Whilst the timber appearance of the fence is in contrast with the adjacent brick wall, it is domestic in appearance, and its location to the rear of the site means it does not form a prominent feature in the street scene. I also note the appearance of the fence matches that adjacent to the car park. I have also considered the letter of support from the residents at 21 Staithe Avenue.
16. For these reasons, the design and appearance of the fence is acceptable, and I conclude that it would not harm the character and appearance of the area. The fence accords with Policy P10 of the Leeds Core Strategy (2014) and Saved Policies GP5 and N25 of the Leeds Unitary Development Plan (2006), insofar as they relate to character and appearance. The fence is also consistent with paragraph 127 of the National Planning Policy Framework which seeks to ensure that new development is of a high standard of design, and that it respects the character and appearance of the area.

Other Matters

17. Whilst the appellant sought to compromise with the Council and seek to provide every room with an aspect to either the front or side of the building, I have to determine the appeal on the plans and information submitted with the application. I have been provided with limited information as to what additional windows may address the Council's concerns or whether these would be acceptable with regard to the character and appearance of the area and the effect on neighbouring occupiers. Therefore, I do not consider that a condition requiring further information of additional windows would be reasonable.
18. The Council officer's report refers to evidence of additional dwelling units being created through the subdivision of the flats. However, I have determined the appeal on the submitted plans.
19. I note the appellant's submission with regards to building regulations, and that large combined kitchen/diner/living rooms are unsaleable in the area. However, building regulations fall under separate legislation, and limited evidence has been provided with regard to sales of similar properties in the area. Therefore, I have attributed little weight to these matters, which do not outweigh the significant harm I have identified above.

Conclusion

20. While I have found that the proposal would not result in harm to the living conditions of neighbouring occupiers or the character and appearance of the area, that is not sufficient to outweigh the harmful effect the works would have on the living conditions of occupiers of the flats. Given that results in conflict with development plan policies, I conclude that the proposal would be contrary to the development plan as a whole. As such, I conclude that the appeal should be dismissed.

R Cooper

INSPECTOR