



Appeal Decision

Site visit made on 5 November 2019

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th March 2020

Appeal Ref: APP/N4720/W/19/3235048

34 Gay Lane, Otley LS21 1BR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
 - The appeal is made by Mr T Whaley against the decision of Leeds City Council.
 - The application Ref 19/03035/FU, dated 16 May 2019, was refused by notice dated 12 July 2019.
 - The development proposed is the change of use involving conversion of a former shop to form 3 flats including replacement shop frontage with new windows and door, addition of pitched roof to part of existing flat roof with formation of windows and part demolition to provide external bin and cycle storage.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr T Whaley against the Council in connection with this appeal. This application is the subject of a separate Decision.

Procedural Matter

3. In his statement the appellant describes the development proposal as an amendment to a previous approval for 2 flats (18/07699/FU). For the avoidance of doubt, the application was dealt with by the Council as being for a new and different proposal. This appeal decision also considers the development proposal to be materially different from the previous scheme.

Main Issues

4. The main issues raised by this appeal are the effect of the development on:
 - the living conditions of future occupants of the ground floor flats with particular regard to internal living space; and
 - on-street parking provision and highway safety on Cambridge Street.

Reasons

Living Conditions

5. The appeal site comprises an end terraced property located just outside the centre of Otley on the corner of Cambridge Street (which the property fronts onto) and Gay Lane. Until recently the property was used as a shop at ground

floor level with the basement, rear area and upper floors used for stock storage. The remaining properties in Cambridge Street (which almost immediately after the appeal property becomes Cambridge Terrace) are mainly terraced dwellings.

6. The development proposal involves the change of use of the ground floor shop and store room to form 2 separate 1-bedroom flats and the change of use of the first and second floor store areas, and the extension to the rear of the first floor, to form a 2-bedroom flat. The flat occupying what was previously the shop and the flat occupying the upper two floors would be accessed via a main door from Cambridge Street. The ground floor flat to the rear of the former shop would be accessed from an entrance on Gay Lane. To the rear of this second ground floor flat is a bin storage area for the use by occupants of all three flats.
7. According to the proposed plans the front and rear ground floor flats would measure 47 square metres and 39 square metres respectively. It is not stated on the application form or in the approved plans as to how many occupants the two ground floor flats are intended to accommodate. However, I find that the rear ground floor flat would be too small and cramped for 2-person occupation and so would not provide satisfactory living conditions.
8. The Appellant contends that the flats would only be occupied by 1 person. Drawing No. 419-013, however, shows double beds in the bedroom of both flats. I have not been presented with any convincing evidence that were the scheme to be implemented that each flat would be occupied by only 1 person. Further, I have not been presented with any details of a mechanism that could enforce such a requirement.
9. The appellant's agent sought to secure from the Council's planning officer clarity as to how the Council would determine whether the ground floor flats were intended for occupancy by 1 or 2 persons. The planning officer considered that the flats were too small for 2-person occupation.
10. On the basis that the two ground floor flats are intended for 2 people I find that neither would comply with the minimum space standard of 50 sq. metres for new dwellings set out in Policy H9 of the Leeds Core Strategy 2014 (CS). Whilst I note that the appellant's agent did seek to secure from the Council's planning officer clarity as to how the Council would determine whether the ground floor flats were intended for occupancy by 1 or 2 persons I am not persuaded that the flat would not be occupied by more than one person.
11. The front flat includes a sizeable basement area in addition to the 47 square metres of internal floor area. This area could provide some degree of utility through its use for additional storage or even as a gym. Consequently, I believe that it would offset the marginal shortfall of 50 sq. metres set out above.
12. I find that the proposal would not provide satisfactory living conditions for future occupants. Thus, the proposal fails to accord with Policy H9 of the CS and saved Policy GP5 of the Unitary Development Plan Review (2006) (UDPR) which both protect living conditions. It also runs against the advice set out in Paragraph 127 of the National Planning Policy Framework (the Framework) that new development should provide a high standard of amenity for future users. I do not, however, find that the proposal conflicts with CS Policy P10 which

seems to be directed at the exterior design and appearance of buildings rather than their internal configuration.

Parking and Highway Safety

13. The proposal does not include any off-street parking provision. There are double yellow line parking restrictions on both sides of the road immediately in front of the appeal property. However, during my visit I did not see any parking restrictions along Cambridge Terrace. In contrast the section of Gay Lane close to the appeal site was generally subject to restrictions through yellow lines or time-limited parking bays.
14. According to the Council there is strong competition for parking spaces along Cambridge Terrace as well as Orchard Street and East View Terrace which are also close to the appeal property. A response from a local resident also expressed concern about the effect that the proposal would have on the availability of parking spaces. I noted that there were a large number of cars parked along Cambridge Terrace.
15. The closure of the shop has, in all likelihood, resulted in a reduction of traffic seeking to park in the neighbourhood during the former shop's opening hours. The addition of 1 flat over and above the previous permission on the same site will possibly exacerbate the current parking situation but, if so, again only marginally. I note that the Council's transport officer did not raise an objection to the proposal and the planning officer did not adduce any relevant detailed evidence.
16. I conclude that the proposal would fail to provide any off-street parking provision. However, in the absence of any firm evidence over parking stress and because the proposal would only result in 1 flat over and above the previously approved scheme, the proposal would not be detrimental to highway safety. I have found that the development proposal would conflict with Policy P10(iv) of the CS which requires that car parking should be integral to new development and also with Policy T2 of the CS which requires parking to be provided in accordance with Council standards. I do not consider that it would conflict with saved Policy GP5 of the UDPR which seeks to avoid highway congestion.
17. I note that Paragraph 109 of the Framework states that new development should only be refused on highways grounds where there would be an unacceptable impact on highway safety. Consequently, in the absence of any convincing evidence pointing to such an impact I find that in this particular case the plan should not be followed in that respect.

Balancing Exercise and Conclusions

18. I have found that the proposed development does not comply with the development plan as regards the living conditions of future occupants of the front and rear flat and as regards highway safety. However, I have found that there are considerations as regards the front flat and highway safety that justify departing from the development plan in this particular case. I also agree that the development proposal would accord with the Framework as regards making full use of a brownfield site to meet housing need and enhancing the character and vitality of the neighbourhood. These are factors that support this appeal.

19. However, I have also found that due to its cramped size the proposal would fail to comply with the development plan as regards the living conditions of future occupants of the rear flat. On balance, weighing these matters up, I conclude that overall the development proposal fails to comply with the development plan. Therefore, having had regard to all relevant matters raised I conclude that the planning appeal should be dismissed.

William Walton

INSPECTOR