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## Appeal Decision

Site visit made on 12 December 2019

**by John Dowsett MA DipURP DipUD MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 1<sup>st</sup> April 2020**

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**Appeal Ref: APP/N4720/W/19/3236463**

**Victoria Garage, Victoria Road, Guiseley, Leeds LS20 8DH**

- 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 Karl Jackson against the decision of Leeds City Council.
  - The application Ref: 19/04092/FU, dated 2 July 2019, was refused by notice dated 28 August 2019.
  - The development proposed is described as: 1) Residential Accommodation on existing flat roof with pedestrian access via the modified entrance on Victoria Road 2) Private Garage within the existing building envelope using the existing access and egress. 3) Removal of high level projecting canopy to Victoria Road and tidy up of damaged elevations.
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### Decision

1. The appeal is dismissed.

### Procedural matter

2. The appeal proposal was described on the planning application form as: '1) Residential Accommodation on existing flat roof with pedestrian access via the modified entrance on Victoria Road 2) Private Garage within the existing building envelope using the existing access and egress. 3) Removal of high level projecting canopy to Victoria Road and tidy up of damaged elevations.' The decision notice issued by the Council uses the description 'Construction of rooftop flat above existing workshop; alterations to existing elevations'. On the appeal form the appellant has included both descriptions and added an additional description of 'Addition of live element to existing work unit to form work/live unit'.
3. The Design and Access Statement submitted with the planning application refers in places to the development as both a caretaker's flat and a live work unit and the drawings that were considered by the Council when the decision was made are also titled "Work-Live Unit".
4. I have taken into account the appellant's submissions that the proposed dwelling unit would be occupied by the operators of the business based in the building below. However, as there is no confirmation from both parties that any change to the description was formally agreed, I have retained the original description from the planning application form for the purposes of the appeal as this is the development for which permission was sought.

## Main Issues

5. The main issues in this appeal are:

- The effect of the proposed development on the character and appearance of the Guiseley Conservation Area;
- Whether the proposed development would provide suitable living conditions for the future occupiers, with particular regard to noise and disturbance from nearby commercial uses; and
- The effect of the proposed development on highway safety in the vicinity of the appeal site.

## Reasons

*Character and appearance of the conservation area.*

6. The appeal site is located within the Guiseley Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in making decisions on planning applications and appeals within a Conservation Area, special attention is paid to the desirability of preserving or enhancing the character and appearance of the area. In addition, Paragraph 193 of the National Planning Policy Framework (the Framework) requires when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
7. The conservation area covers the historic core of the town and has a mixed character, including commercial premises on Otley Road and Oxford Road, and textile mills on Netherfield Road in addition to residential properties. It covers much of the historic core of the town. The buildings within the conservation area are predominantly constructed in stone and are generally two to three storeys in height. The buildings are mostly terraced in form with pitched roofs.
8. The appeal site is located close to the boundary of the conservation area with the land and buildings opposite being outwith the conservation area, although older buildings to the north are included. In the northern part of Victoria Road, where the appeal site is located, the built form is fragmented due to the presence of the electricity substation that lies to the north of the appeal site and the more modern buildings opposite that are outside the conservation area. The southern part of the road is more cohesive and primarily residential, with some more recent dwellings inserted into the older built form toward junction with Park Road. Notable buildings in the area were the black and white façade of Victoria Fisheries adjacent to the appeal site; a small meeting hall at the junction of Victoria Road and Cavendish Road; and adjacent to this, an impressive, seven bay, building with a centrally placed, pedimented, entrance and which has been converted to flats. To the rear of the appeal site, on Hallam Street, is a group of industrial buildings, mainly single storey, but focussed around a three storey structure. The Guiseley Conservation Area Appraisal and Management Plan 2010 (CAA) identifies these as an important industrial complex, although there are no details of the significance of this, other than being a remnant of the early industry in the town as it evolved from a village into an industrial town in the 19th and early 20th century.

9. The CAA also identifies the buildings adjoining the appeal site as making a positive contribution to the conservation area. The building on the appeal site is not identified as a positive building.
10. It is common ground that the existing, brick built, building on the appeal site is of no great architectural merit and has little heritage value. However, it is not excessively high and is of a scale where it is unobtrusive. Due to its industrial appearance, the building also provides visual and physical links to the complex of industrial buildings in Hallam Street that are identified as important in the CAA, and is of a scale that is consistent with these, retaining the prominence of the three storey block that can be seen over the lower buildings on Victoria Road.
11. I accept that there are different approaches to designing a new building, or an extension to a building, within a historic setting and that the appeal proposal has been through several iterations before the version that was finally considered by the Council. Neither Policy P11 of the Leeds Core Strategy 2014 (the Core Strategy), nor the Framework discourage innovative solutions. Nonetheless, Core Strategy Policy P11 also requires historic townscapes to be conserved and enhanced, and that development proposals will be expected to demonstrate a full understanding of historic assets affected. The Framework expects new development to add to the overall quality of an area, be sympathetic to local character and history and take the opportunities for improving the character and quality of an area.
12. Whilst, the proposed rooftop extension would be constructed from materials to match the original building, it would substantially increase the height of this building and introduce features such as railings, screens, and outdoor activity at upper levels, which are not present elsewhere and that are inconsistent with the existing character of the area. The additional height of the building, although set back from the main, ground floor, front wall would be visible looking down Victoria Road from the north as it would be higher than the adjoining stone building and the electricity substation. This would result in increased prominence being given to a building which currently adds little to the appearance of the conservation area. I also noted that in the wider conservation area, stepped upper levels are not a feature of the built form with the buildings presenting uniform, flat, façades to the street. This visual difference would be exacerbated by the flat roofed design which is not characteristic of the built form in the conservation area. The increased height and prominence of the resulting building would compete visually with the striking façade of Victoria Fisheries and the three storey industrial building to the rear in views from Victoria Road. It would also reduce visibility of the industrial buildings to the rear in views down Cavendish Road.
13. The proposed development would add to an already incongruous building and increase its prominence. As noted above, the street scene in the northern part of Victoria Road is fragmented which leads to the area having a greater sensitivity to change. By partially blocking views of the surviving industrial buildings and competing visually with them, the appeal proposal would diminish the ability to understand the evolution of the area as a residential area that grew around industrial sites as the town developed.
14. I have had regard to the appellant's point that the appeal site lies just outside the designated town centre area. Nevertheless, much of the designated town

centre is excluded from the conservation area and those parts that are within the conservation area exhibit a more traditional and consistent built form and appearance.

15. I therefore find that the proposed development would cause harm to the conservation area but, due to the overall size of the conservation area and the relatively small scale of the proposed development, this harm would be less than substantial and limited to this particular part of the conservation area.
16. Paragraph 196 of the Framework requires that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, in this case the conservation area, this harm should be weighed against the public benefits of the proposal, including where appropriate, securing its optimum viable use. There is no evidence that would indicate that the existing building is not capable of being put to an economically viable use at present, or that the appeal proposal is necessary to maintain the current building in a viable use. The proposal may have some modest public benefit in refurbishing the existing building, which is currently slightly dilapidated, although it is unclear from the appellant's evidence how the proposed development would fund the refurbishment of the building as a whole. The removal of the large projecting canopy from the front elevation would be beneficial to the street scene, nevertheless, this is not necessarily dependant on the appeal proposal going ahead. It is also stated that cessation of the use as a coach depot would reduce traffic congestion on Victoria Road, but I note that from the appellant's own evidence that this use has already ceased. Even taken together, the resulting moderate weight in favour of the proposal would not overcome the great weight that is required, as a minimum, to be given to the conservation of heritage assets.
17. I conclude that the proposed development would cause harm to the character and appearance of the Guiseley Conservation Area. It would not comply with the relevant requirements of Core Strategy Policies P10 and P11, Saved Policies GP5, N19 and BD6 of the Leeds Unitary Development Plan Review 2006 (the UDP), or the Framework, which when read together expect new development to be of a high quality design that is appropriate to its context and conserves or enhances heritage assets.

#### *Living conditions of the future occupiers*

18. The appeal site is located in an area with a mix of residential and commercial uses. It is located adjacent to a commercial building on Victoria Road and just to the north of a hot food takeaway premises. To the rear of the appeal site there are existing commercial units in Hallam Street. At the time of my site visit, which was on a typical weekday afternoon, I observed that whilst these businesses were operating, they were not generating noticeable levels of noise.
19. No substantive technical evidence has been submitted by either party in respect of noise levels in the area, nor have any specific noise sources been identified, other than activities in the building below, that would potentially affect occupiers of the flat above. During my site visit I noted that the background noise levels were relatively low and that the dominant noise source was traffic noise from vehicles using Victoria Road. On Hallam Street, to the rear of the appeal site, there was little noise from the commercial premises audible from outside the buildings.

20. Whilst I recognise that this is only a snapshot of the particular time that I was at the site and surrounding area, there is nothing in the evidence before me that would indicate that the noise climate is significantly different at other times or that the perceived background noise levels that I noted were atypical. I also saw that there are existing residential properties on Hallam Street and Otley Road that are in proximity to the commercial uses. I have not been made aware of any noise complaints that have arisen from this situation.
21. I accept that the uses or operating hours of the existing commercial premises may change in the future, however, where these are not subject to planning controls, other mechanisms exist to address noise nuisance.
22. As the proposed flat is a new build element, there are no technical reasons why appropriate noise mitigation measures could not be incorporated into the building fabric in accordance with the advice in the Planning Practice Guidance that development proposed in the vicinity of existing businesses may need to put suitable mitigation measures in place to avoid those activities having a significant adverse effect on residents or users of the proposed scheme.
23. The Council contend that the activities in the existing building below the proposed flat would result in an unsuitable noise environment for the future residents. The appellant's evidence states that the building is used by the appellant for equipment maintenance and storage in addition to housing a hydraulic press for log used splitting. The submitted drawings also indicate that the ground floor would be used for the storage of work vehicles. There is no information in relation to noise levels that would be generated by the business use of the ground floor of the building. Were the proposed flat to be occupied separately from the business use, due to the subjective nature of the perception of noise, there is potential for the business use to have an adverse effect on the occupiers of the proposed flat irrespective of any designed in noise mitigation.
24. Whilst it is not specified in the application description, the design and access statement and the appellant's appeal statement both make reference to the proposed flat being occupied by the appellant and his family in conjunction with the use by the appellant of the building below in connection with his business. The appellant has also indicated that he is amenable to accepting a condition restricting occupancy of the proposed flat to persons employed by the business operated from the building below. In these circumstances, as the appellant points out, the occupiers of the flat would not necessarily be simultaneously occupying the flat and the business premises. If there was simultaneous occupation of both parts of the building, occupiers of the flat would make appropriate allowances, or the timing of any noisy activities could be more easily accommodated.
25. In the absence of any substantive evidence in respect of noise levels in the area and from my observations during the site visit, I am satisfied that, were the proposed flat to be occupied by the appellant as set out in the supporting evidence, through the use of planning conditions restricting occupancy and requiring noise mitigation in the building construction, an appropriate internal noise climate could be achieved within the proposed flat.
26. The Council have not raised any concerns regarding the suitability of the proposed flat in respect of internal floorspace, outlook, availability of daylight and sunlight; or provision of outdoor amenity space. From what I have read,

my perusal of the application drawings, and from what I saw when I visited the site, I have no reason to find otherwise.

27. Based on the above, I conclude that the proposed development would provide suitable living conditions for the future occupiers, with particular regard to noise and disturbance from nearby commercial uses. It would not conflict with the relevant requirements of Core Strategy Policy P10, Saved Policy GP5 of the UDP, and the Framework, which when read together seek to ensure that new development contributes positively to quality of life and wellbeing, and provide a good standard of amenity.

#### *Highway safety*

28. Victoria Road is a busy route that links two main roads within the town, Otley Road (A65) and Park Road (B6153), and at the time of my visit was carrying a regular flow of traffic. Parking on the carriageway immediately outside the appeal site is restricted by double yellow lines and elsewhere on Victoria Road and nearby streets parking is restricted to permit holders, with non-permit holders being limited to a maximum two hour stay.
29. Core Strategy Policy T2 requires new development to make provision for parking cars, motorcycles and cycles in accordance with current guidelines, whilst Policy P10 of the Core Strategy expects car parking to be designed in a positive manner and be integral to the development. Saved Policy GP5 of the UDP seeks to ensure that development proposals avoid highway congestion and maximise highway safety. Applying the parking standards set out in the Leeds City Council Street Design Guide Supplementary Planning Document 2009 (the SPD), the proposed new two bedroom flat would require 1.25 to 1.5 parking spaces plus provision for visitor parking. This would be in addition to any operational parking required for the business use.
30. The submitted drawings show parking spaces for four cars with parking provision for two works vehicles within the building. One of the parking spaces shown, to the north of the appeal building at the front of the adjacent stone built building, is beyond the red line boundary of the appeal site and, whilst this land may be in the same ownership, it cannot be counted towards the parking provision at the appeal site. Whilst Hallam Street may be a private road, I have no reason not to accept the appellant's statement that there is a right of access to the parking space shown at the rear of the building.
31. The two remaining parking spaces are shown on an area to the front of the existing building which is between the footway and the front wall of the building. The evidence indicates that this has historically been used for parking in association with the existing building. This area can be accessed by an existing dropped kerb outside the building and there is a further dropped kerb to the unnamed road that runs to the south of the building.
32. Parking in this area would be in a tandem arrangement and the presence of a lighting column at back of footway, adjacent to the junction with the unnamed road and the fact that the dropped kerb does not extend the full length of the area would result in awkward manoeuvres to parallel park between the building and footway or to re-join the carriageway. However, this is a pre-existing situation that has clearly operated in the past

33. The footnotes to the parking standards set out in the SPD state that Developers will be permitted either a reduced or increased parking provision where it is demonstrated that car ownership of the occupants is likely to be lower or higher than the Leeds average. The appellant states that the two work vehicles are also used as personal transport by the appellant. This would reduce the potential need for parking provision in respect of the current proposal, particularly if the occupation of the proposed flat were tied to a business activity on the ground floor of the building as suggested by the appellant.
34. Taken as a whole and given the location of the appeal site adjacent to the town centre area and the proximity of public transport, I am satisfied that the proposal would make suitable provision for parking in accordance with the Council's current guidelines.
35. The appeal site is located at a point where Victoria Road changes orientation resulting in an approximately 45° bend just to the south of the site. Immediately to the south is a narrow, unnamed, road that provides access to the rear of properties on Victoria Road and to a freestanding building set behind them. Due to the bend in the road, at the junction of the unnamed road with Victoria Road, the visibility to the south is constrained by the buildings on the east side of the road. I saw when I visited the site that if vehicles were to be parked in front of the appeal building they would also restrict visibility to the north for drivers exiting the unnamed road, resulting in drivers having to pull forward beyond the radius of the junction and projecting into the main carriageway.
36. This said, given the nature and function of the unnamed road, vehicle movements on it will be few and infrequent. In the approximately one hour I spent at the site and in the vicinity, I did not observe any vehicles using this junction. Regular users of this junction would also be aware that there is restricted visibility to the south and that existing building on the appeal site limits forward visibility to the north to some extent regardless of whether vehicles are parked in front of it. In this context, the use of the building frontage for parking would not make the existing situation significantly worse.
37. The Framework at Para 109 sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. From the evidence, the building on the appeal site was previously used as a coach depot and will have generated vehicle movements as a result of this use. Whilst the appeal proposal would also generate vehicle movements and result in manoeuvring on and off the carriageway, there is no technical evidence before me that would indicate that would indicate that the existing or proposed parking and access arrangements are intrinsically unsafe. Whilst the proposed development may result in an alteration in the number and form of vehicles movements and manoeuvres at the site, there is no evidence that would indicate that this would be significantly different from those resulting from prior uses of the existing building. From what I saw when I visited the site, the road conditions in the area are not such that the vehicle movements and manoeuvres that would result from the appeal proposal would result in an unacceptable impact on highway safety or have a severe impact on the operation of the road network in the area.

38. I therefore conclude that the proposed development would not cause harm to highway safety in the vicinity of the appeal site. It would comply with the relevant requirements of Core Strategy Policies P10 and T2, Saved Policy GP5 of the UDP, the SPD and the Framework.

### **Other matters**

39. The second reason for refusal briefly mentions disturbance to nearby residential properties resulting from the construction of the proposed flat, although this has not been elaborated on by the Council. It is inevitable that construction activities will generate a degree of noise and there are residential properties in the vicinity of the appeal site. Nonetheless, the times during which building works occur could be controlled by way of a planning condition, and associated activities such as deliveries and parking could similarly be regulated by a condition requiring the submission and implementation of a construction and site management plan. Appropriate conditions could be used to minimise any noise disturbance resulting from construction activities and, consequently, in this case noise arising from construction works would not, in or of itself, be a reason to withhold planning permission.

### **Conclusion**

40. Section 38(6) of the of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications and appeals must be made in accordance with the development plan unless material considerations indicate otherwise.
41. It is not suggested that the policies in the development plan are out of date, that the Council cannot demonstrate a deliverable five year supply of housing land, or that the Council is failing to meet its housing delivery targets. The Framework seeks to ensure that heritage assets are conserved in a manner appropriate to their significance and gives great weight to this. I have found that the proposed development would cause harm to the character and appearance of the Guiseley Conservation Area and that this harm would not be outweighed by any public benefits of the proposal. This provides a clear reason for refusing the proposed development and, consequently, the presumption in favour of sustainable development is not engaged.
42. Although I have found that the proposal would provide suitable living conditions for the future occupiers and that it would not cause harm to highway safety in the vicinity of the appeal site, the harm that would be caused to the conservation area would be lasting and is a matter of great importance that would not be overcome by lack of harm in respect of other matters or the modest benefits of the proposal. The appeal proposal would not comply with relevant policies in the development plan, which are up to date as they conform with the requirements of the Framework, and no other material considerations have been identified that would indicate that planning permission should be granted for a development that conflicts with the development plan.
43. For the above reasons, I conclude that the appeal should be dismissed.

*John Dowsett*

INSPECTOR