



Appeal Decision

Site visit made on 30 June 2020

by Beverley Wilders BA (Hons) PgDurp MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 July 2020

Appeal Ref: APP/N4720/W/20/3251072

Apartment 6, 7 & 8, 1B 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.
 - The appeal is made by Mr Darren Hirst (Just Design Homes) against the decision of Leeds City Council.
 - The application Ref 20/00736/FU, dated 5 February 2020, was refused by notice dated 9 April 2020.
 - The development is described as revised details of apartments 6, 7 and 8 under planning consent 16/01480/FU.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Planning permission was granted for the change of use of a former Church and hall to form 9 flats in 2017 (Ref 16/01480/FU). A subsequent application to vary the approved scheme was refused in 2019 and dismissed at appeal (Ref 19/01639/FU). I have been provided with some documentation relating to the previous applications and have had regard to this where relevant.
3. Works have been carried out to the building and at the time of my visit, at least part of it appeared to be in residential use. However, the Council states that the works on site are not wholly in accordance with the approved scheme. My internal inspection of the flats affected by the amendments proposed (Flats 6, 7 & 8) revealed that there are some differences between the layout on site and the layout shown on the submitted plans. For the avoidance of doubt, I have assessed the scheme as shown on the submitted plans.
4. Having regard to the background to the appeal and to the Council's concerns, I consider that the main issues are:
 - the effect of the proposed amendments on the living conditions of the occupiers of the neighbouring property having particular regard to privacy;
 - whether future occupiers of Flats 6, 7 & 8 would have satisfactory living conditions having particular regard to outlook and natural light;
 - the effect of the proposed rear window on the character and appearance of the host building.

Reasons

Living conditions neighbouring property

5. One of the proposed amendments to the previously approved scheme includes the addition of a first floor window positioned towards the rear of the southern (side) elevation to provide additional outlook and light to a kitchen/day room in Flat 8. The position of the window relative to the neighbouring property at 7 Hopewell View is such that it would allow for direct overlooking at a very close distance of the modest sized side and rear garden of No 7. It would result in a material loss of privacy to No 7.
6. The appellant argues that the new window would be at an acute angle to the rear garden and that any overlooking would be no worse than that which exists from neighbouring properties. However, at my site visit I noted the position of neighbouring windows relative to the rear and side garden at No 7 and consider that any existing overlooking is limited and that the proposed window, which would be at a right angle and not an acute angle to the rear and side garden of No 7, would result in a material and harmful increase in overlooking of the neighbouring garden. The appellant acknowledges that the position of the window fails to meet the Council's distance standards.
7. Though it appears that no objections have been raised to the proposal by the occupiers of No 7, this does not overcome the harm that I have identified. In reaching my decision I also acknowledge that the appellant states that the proposed window could be obscurely glazed to prevent any overlooking of the neighbouring property. However, though this would address the issue of overlooking whilst still increasing the amount of natural light to the room, it would leave the room without any outlook unless further changes to the room are proposed. Such changes, as suggested by the appellant, would be likely to materially alter the proposal and would require additional consultation with neighbours. Consequently, I do not consider that such a solution could be dealt with solely by the imposition of suitably worded conditions.
8. Taking the above matters into consideration, I conclude that the proposed amendments would have a significant harmful effect on the living conditions of the occupiers of the neighbouring property having particular regard to privacy. They are therefore contrary to Policy P10 of the Leeds City Council Core Strategy¹ (CS) and to saved policies GP5 and BD5 of the Leeds Unitary Development Plan (Review 2006) adopted July 2006 (UDP) insofar as they relate to living conditions. These policies seek, amongst other things, to ensure that consideration is given to living conditions and that proposals should protect residential amenity.

Living conditions of future occupiers

9. In dismissing the appeal against application reference 19/01639/FU, the previous Inspector considered that future occupiers of Flats 6, 7 & 8 would not be provided with suitable living conditions, noting light levels and outlook in the rear kitchen/dining room of Flat 6; in bedroom 2 of Flat 7 and in the rear kitchen/day room of Flat 8. Amendments were subsequently made to the scheme in an attempt to overcome the previous Inspector's concerns.

¹ Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019) adopted November 2014, amendments adopted September 2019

10. An additional window is proposed to the rear kitchen/dining room of Flat 6. The ground floor window would be in the southern (side) elevation of the building and would face onto an enclosed vehicle and pedestrian access to the rear of the building and the rear car park. The particular position of the window adjacent to an enclosed space means that whilst it would provide some outlook and additional natural light to the rear kitchen/dining room, this would be limited and would not be sufficient having regard to the fact that the room is one of the main habitable rooms of the flat and currently only has a single, obscurely glazed window in the rear elevation.
11. A similar sized window is also proposed at first floor to serve the kitchen/day room of Flat 8. I note the Council's concerns regarding the distance from this window to the gable end of the adjacent property. However, noting the position of the proposed first floor window beyond the rear of the two-storey side gable, it would have a fairly open aspect and would significantly improve the outlook of the room and the amount of natural light within it.
12. Bedroom 2 of Flat 7 is rectangular shaped with an obscurely glazed low level window positioned in the rear corner of the room. The window provides no outlook and its position means that the amount of natural light to the room is limited. The proposed rear projecting window would be in the same position and have the same sized aperture as the existing window but it would be box-like and project slightly enabling the provision of clear glazing to one of the side panels. Although slightly larger, and although it would incorporate a clear glazed side panel, the proposed window would not significantly increase the amount of natural light received by the room and would not materially increase the outlook from it. The position of the window and the size and shape of the bedroom means that a restricted outlook would only be possible from a very small part of the room.
13. In reaching my decision I note the appellant's view that the flats are spacious and that there is no specific policy requirement for all habitable rooms in spacious flats to have an outlook. I also note that he considers that the rear kitchen/dining/day rooms are open to the front of the flats where there is good outlook. However, whilst in some cases the overall space within a flat may justify a more flexible approach to outlook and natural light, this is not the case here. At my visit I noted that the particular layout and position of doors and corridors within the flats results in them feeling cramped and means that adequate outlook and natural daylight elsewhere within the flats does not and would not adequately compensate for inadequate outlook and natural light in other rooms.
14. Taking the above matters into consideration, whilst I consider that the proposed amendments would provide an acceptable outlook and acceptable levels of natural light to the kitchen/day room in Flat 8, the amendments would not provide acceptable outlook and natural daylight to the rear kitchen/dining room of Flat 6 and bedroom 2 of Flat 7. Future occupiers of Flats 6 and 7 would not therefore have satisfactory living conditions having particular regard to outlook and natural light. The proposed amendments are therefore contrary to Policy P10 of the CS and saved policies BD5 and GP5 of the UDP insofar as they relate to living conditions. These policies seek, amongst other things, to ensure that consideration is given to living conditions and that proposals should protect residential amenity.

Character and appearance

15. The host building is a former Methodist Church, caretaker's dwelling and church hall. The part of the building affected by the proposed amendments is the former church hall positioned at the southern end of the complex of buildings. It is a relatively simple, utilitarian two storey building with a largely brick frontage. The rear elevation and southern gable are rendered with the rear elevation displaying more visual variation than the more uniform front elevation. The Council considers the host building to be a non-designated heritage asset.
16. Paragraph 197 of the National Planning Policy Framework (the Framework) states that the effect of an application on the significance of a non-designated heritage asset should be taken into account and that a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
17. In this case the significance and special interest of the asset is largely derived from the form and previous function of the group buildings. The Church appears to date from the early 1900's and its walls have high arched windows typical of an ecclesiastical design. The north end has a three storey tower. The church hall is of a slightly later date and is simpler in form with the front elevation in particular being of a simple and relatively uniform appearance including the position and sizing of window openings. Such features contribute to the significance and special interest of the asset.
18. As stated, the rear elevation of the former church hall is rendered and has a more varied and less rhythmic appearance incorporating a variety of opening types and projecting brick supports. I consider that this part of the building only makes a modest contribution to its significance and is less sensitive to change and alteration than other parts of the host building. In addition, although it appears that the conversion of the building has sought to utilise existing openings, at my visit I noted the use of upvc window frames and doors. The appearance of the asset has therefore already undergone a certain amount of change.
19. The proposed rear window would be positioned on the less sensitive rear elevation of the former church hall. It would replace an existing window of a similar size. Although its box-like appearance would not replicate existing window details and would introduce a new feature to the building, it would nevertheless be relatively modest in size and projection and would have a limited effect on the overall character and appearance of the former church hall and wider asset. Views of it from beyond the site would be limited and it would be viewed in the context of the varied rear elevations of the former church buildings. Consequently, although I consider that there would be some harm resulting from the introduction of a window feature out of keeping with others on the building, I consider that the harm would be limited and would not adversely affect the significance of the asset.
20. Taking the above matters into consideration, I conclude that the rear window would not have a significant adverse effect on the character and appearance of the host building. The proposed amendment therefore accords with Policy P10 of the CS, saved Policy GP5 of the UDP and to section 16 of the Framework insofar as they relate to the issue of character and appearance. These policies seek, amongst other things, to ensure that alterations to existing buildings

provide good design appropriate to the context and that development protects historic assets. Although the reason for refusal relating to this issue referred to Policy N25 of the UDP, this relates to boundaries of sites and so is not therefore directly relevant to the proposed amendments. In addition, section 16 rather than section 12 of the Framework as referred to in the reason for refusal relates to the historic environment following the publication of a revised Framework in February 2019.

Other Matters

21. In reaching my decision I acknowledge and have some sympathy with the fact that alterations have been required to the original conversion scheme in order to comply with building regulations and to the challenges that residential conversions of buildings can pose. However, these factors do not overcome the harm that I have identified that would result from the scheme before me.

Conclusion

22. The proposed amendments would not be harmful to the character and appearance of the host building and the kitchen/day room of Flat 8 would have an acceptable outlook and acceptable levels of natural light. However, the proposed amendments would have a significant adverse effect on the living conditions of the occupiers of the neighbouring property having particular regard to privacy. In addition, future occupiers of Flats 6 and 7 would not have satisfactory living conditions having particular regard to outlook and natural light. The proposed amendments are therefore contrary to the development plan as a whole.
23. For the above reasons and having regard to all matters raised, I conclude that the appeal should be dismissed.

Beverley Wilders

INSPECTOR