



Appeal Decision

Site visit made on 14 July 2020

by Alison Scott DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 August 2020

Appeal Ref: APP/N4720/W/20/3249618

40 Clarendon Road, Woodhouse, Leeds LS2 9PJ

- 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 Crescent Enterprises Ltd against the decision of Leeds City Council.
 - The application Ref 19/03989/FU, dated 28 June 2019, was refused by notice dated 24 October 2019.
 - The application sought permission for Change of use and alterations of healthcare facility (use class D1) to 13 student accommodation flats (sui generis) including addition of cycle store and bin store, without complying with conditions attached to planning permission Re 18/05192/FU dated 10 May 2019.
 - The conditions in dispute are Nos 2 and 16 which state that, The development hereby permitted shall be carried out in accordance with the approved plans listed in the Plans Schedule, and, Prior to first occupation of the property the communal space and facilities identified on drawing (03)04C shall be provided as approved. The facilities shall thereafter be retained and maintained for use by all occupiers of the property for the lifetime of the development.
 - The reason given for the conditions are: For the avoidance of doubt and in the interests of proper planning, and, to provide space and facilities for student living in the interests of amenity.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 (as amended) and supersedes the decision issued on 31 July 2020.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The appellant has brought to my attention an approved application for a Non-Material Amendment¹ to remove the reference to the number of units listed within the description of the original application approved by the Council under reference number 18/05192/FU. This is in the interest of correctness.

¹ Ref 20/9/00104/MOD

Main Issues

3. The main issues are:

- The effect of the proposal on the living conditions of existing occupiers of the building and the future occupiers of the apartment; and
- The effect of no Section 106 on safeguarding affordable housing and spacing standards.

Reasons

4. The appeal seeks to vary the approved plans to the original approval, Condition 2, as well as to remove Condition 16 that seeks to provide the communal room and its retention.
5. The appeal property is a Grade II Listed Building located within the Woodhouse – Clarendon Road Conservation Area. Southfield House is an imposing red brick house built approximately between 1867-1870 set in its own grounds. Its arched windows, turret with pyramid roof and high chimney stacks create striking features within a street scene of other fine examples of 19th Century architecture of Victorian Villas, mostly set behind original walls with hedges above.

Effect on living conditions of existing occupiers

6. The appeal site offers studio and apartment accommodation over four floors with access via a communal main entrance leading to each studio and apartments. The plans of the building and the sizes of the units indicate to me that units can function as self-contained spaces providing their own kitchen facilities with sufficient space to circulate.
7. The studio and apartment room sizes created were deemed to be adequate for their purpose although the Council approved the scheme with mitigation for the small room spaces via the creation of a communal room. The communal space currently provides a separate space for the occupiers to withdraw to beyond their own private rooms. However, there could be no necessity for occupiers to use the communal room to function given the specific facilities provided within the studios and apartments.
8. As demonstrated by the appellant's survey, the communal room is not extensively used by the occupiers, although the building has been functioning as student accommodation for a short period of time and its use was surveyed for a very limited period of time. I therefore apply limited weight to the findings of this survey.
9. I appreciate that additional recreation space of the communal room can create a more cohesive environment in multiple occupancy developments, and providing the opportunity to bring individuals together. I recognise the benefits of such a space and the health and wellbeing advantages it can generate, which is a material consideration. This is also supported by the Council's Public Health colleagues and noted through an objection to the proposal. However, the Council also acknowledge within their Statement of Case that it is not always necessary for all student accommodation to require a communal room.
10. A communal room may provide an overall better quality of space for the occupiers. However, the Leeds Core Strategy Selective Review 2019 (CS) Policy

H9 Minimum Space Standards requires student accommodation to reflect the Nationally Described Space Standards (NDSS) with '*appropriate adjustments*' to address the particular characteristics of these types of development and to meet standards of '*general amenity for occupiers including adequate space*'. It also refers to further guidance within the Supplementary Planning Document, although the Council confirm this document is in its infancy.

11. I apply significant weight to the fact that there are no specific Council policies to justify the need for communal space in a development of this size. CS Policy H9 is not sufficiently specific in its interpretation of '*appropriate adjustments*' or '*general amenity for occupiers to include adequate space*' and that is not to say it would be strictly limited to indoor space only. I would argue that Southfield House provides a good standard of general amenity, and this weighs in its favour.
12. There is an absence of Council policy to justify the requirement for this space in a development of this size. I reason that a student development of thirteen units has very different requirements to that of a larger student development although I caveat this with each development must be considered on its own individual merits. However, on the basis of the information before me, the loss of the communal room would not lead to harm arising to the living conditions of the occupiers.
13. It would not run contrary to the Leeds Core Strategy Selective Review 2019, Policy CC1 in its aims to encourage residential accommodation provided it provides an acceptable level of amenity, including other considerations. It would also be in accordance with Policies H6 and H9 for new developments and conversions to provide acceptable internal living accommodation and adequate space, amongst other considerations. It would accord with the Leeds Unitary Development Plan Review 2006 Policy GP5 for development proposals to resolve planning considerations, and Policy BD5 for development to consider usable space, amongst other considerations.

Effect on living conditions of future occupiers

14. There is no dispute between parties in respect of the size of the accommodation that would be provided. As there are two separate main rooms within the space, each would perform its own independent function as a bedroom and a separate living space.
15. A new lightwell would be created to the rear of the appeal site with new fenestration to serve the space. However, an occupier would be required to stand very close to the window and look up to gain a context of the surroundings. Furthermore, the outlook at eye level would be onto the brickwork of the lightwell within very close range. Above this, the occupier would view the rear yard of Southfield House and towards the rear elevations of the houses at Back Hyde Street behind the appeal site. This outlook to support a bedroom would be poor.
16. The main space has two existing windows, and these are proposed to be enlarged. The outlook from eye level would be directly onto the brickwork of the lightwell area, within very close quarters. Having assessed the plans to increase the fenestration, only when the occupier stands very close to the window and looks up, would they have an appreciation of the surrounding environment. Given the land levels change, the garden would not be clearly

visible and the railings surrounding the lightwell would further restrict the outlook from these windows. I am therefore not of the view that the outlook from these windows would be conducive to acceptable living conditions for the future occupant.

17. The Internal Daylight Report confirms that the average daylight factor is 1.5% and complies with BRE Guidelines. This assessment '*calculates the average illuminance within a room, as a proportion of the illuminance available to an unobstructed point outdoors under a sky of known luminance and luminance distribution.*' It has also considered window transmittance and surface reflectivity. However, the details submitted within the report do not provide a clear working out of how daylight into rooms has been precisely measured, and I question the appropriateness of this report to accurately assess internal daylight levels, and its effect on living conditions.
18. From my own inspection, the main communal space which faces north-west was exposed to very limited light levels entering the room at the time of my visit. The alcove positions of the windows also resulted in reduced light levels here. The existing dining room was also exposed to limited daylight levels at that time. It was necessary for me to switch the lights on in both rooms to provide a comfortable environment. The low ceiling heights and the fact that the space is within the lower ground level of the building would inevitably emphasise the subdued light levels into these rooms. Whilst I appreciate my visit was over a limited period of time, and changes are proposed to the each room, nonetheless, I am not convinced that these would be sufficient to lead to acceptable living conditions for an occupier.
19. Comparisons are drawn by the appellant between this proposal and the accommodation in other lower ground floor studios. However, the location of these rooms within the building and their relationship with the external land levels outside, as well as their room sizes are not precisely the same as the appeal space. Therefore I do not consider the circumstances to be the same.
20. I was also able to visit another studio at lower ground level, Flat 1 and have been presented by the appellant with the outlooks from the other lower ground studio room. These studios contain one main room with different window fenestrations to the appeal space and are smaller in overall size. They are both on the opposite side of the building and the outlook to the external space is not comparable to that of the appeal site. The height levels of lightwells, the external land levels and outlooks from these windows are materially different to that of the appeal apartment. I am satisfied that the rooms cannot be directly compared.
21. Regardless of whether or not there are outdoor grounds, the generous size of the apartment, internal equipment, furnishing, and wall decoration, these matters do not overcome the fact that the future occupier would experience living conditions at an unacceptably low level.
22. On this basis the proposal would run contrary to the Leeds Core Strategy Selective Review 2019, Policy CC1 in its aims to encourage residential accommodation provided it provides an acceptable level of amenity, as well as Policies H6 and H9 for new developments and conversions to provide acceptable internal living accommodation and adequate space, amongst other considerations. It is also in conflict with CS Policy P10 to deliver high quality design and to protect residential amenity in particular, as well as other

considerations. The proposal would conflict with the Unitary Development Plan Review 2006 Policy GP5 for development proposals to resolve planning considerations and Policy BD5 for development to consider satisfactory daylight in particular, amongst its other considerations.

Section 106

23. No Deed of Variation to this S106 was submitted at the time the application was determined and this formed the Council's third reason for refusal. I note the appellant's willingness to enter into a deed of variation and have had sight of a version to satisfy the Council. However, as I am dismissing the appeal, there is no reason to consider this matter further.

Other Matters

24. I recognise the appellant's comments to make effective use of land in accordance with advice contained within the National Planning Policy Framework, (the Framework), however I am also conscious of the Framework's intention to create places with a high standard of amenity for existing and future users.
25. The appellant may be a reputable company, and they have worked alongside the Council to secure larger room sizes within the property, and this is admirable, as well as the high standard of development they have created, however these factors do not alter the conclusion I have reached.

Conclusion

26. I find no harm would arise to the living conditions of existing occupiers as a result of the loss of the communal room. However, I find harm would arise to the living conditions of the future occupiers of this proposed unit and the variation of condition 2 and the removal of condition 16 is therefore not supported. For these reasons, the appeal is dismissed.

Alison Scott

INSPECTOR