The Planning Inspectorate

Appeal Decision

Site visit made on 21 July 2020

by J Hunter BA (Hons) Msc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 September 2020

Appeal Ref: APP/X4725/W/20/3248859
Wray's Buildings, Horbury

- 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 Mike Smith against the decision of City of Wakefield Metropolitan District Council.
- The application Ref 19/02803/FUL, dated 3 December 2019, was refused by notice dated 19 February 2020.
- The development proposed is described as change of use from Class B8 storage to domestic C3, installation of dormer, replacement of rooflight and doors.

Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is whether the proposed development would provide acceptable living conditions for future occupiers of the appeal property and No 10 Wray's Buildings in respect of private amenity space, outlook and privacy.

Reasons

3. The appeal property is a small part single, part two storey, brick and slate building which lies to the rear of a short terrace of houses and is accessed via an unmade lane.

4. The appeal site is in very close proximity to the town centre and as such the immediate surrounding area is characterised by relatively dense development of both residential and commercial property.

5. The proposal would see the conversion of the building into a residential dwelling. Based on the plans before me, the dwelling would comprise an open plan living/ kitchen area with shower room at ground floor and a double bedroom at first floor. The single storey element of the existing building would be partially demolished and reconfigured to provide a small, enclosed outdoor amenity space which would accommodate storage for two bins plus a seating area. The existing double garage doors would be replaced with a single point of entry to the front of the property and a full height window. A smaller window on the eastern elevation would remain in its existing position. At first floor, the existing full height window would be replaced by a dormer extension which would accommodate a recessed full height window.

6. The front elevation of the appeal property is positioned at an oblique angle to the rear of no 10 Wray's buildings albeit only around 10 metres away. Therefore, the existing situation is that the first floor window overlooks the ground floor rear window and external amenity space at no 10. As part of the proposal, the appellant has designed a deep recess to the first floor dormer that would assist in obscuring views into no 10 and vice versa.

7. Whilst I accept that overlooking is an existing situation, changing the use of the appeal building to residential would lead to permanent 24hr use as a residential unit and therefore the potential impact would be greater than that arising from the current office and storage use. Nonetheless, whilst I appreciate that the separation distance falls short of the 12 metres suggested within the Wakefield District Residential Design Guide, Supplementary Planning Guide 2018 (SPG) I am satisfied that design of the replacement first floor window and in particular the depth of the recess and side cheeks would significantly reduce views between the first floor window of the appeal property and the rear of no 10 Wray's Building. In this regard, I am satisfied that the proposal would not have a significantly detrimental effect on the living conditions of the occupiers of no 10 Wray's Buildings in respect of privacy.

8. Similarly, the structure of the proposed dormer would provide privacy to the occupiers of the upstairs bedroom which would mitigate any overlooking from the public realm or occupiers of the adjacent properties. Furthermore, whilst I appreciate the preference for natural light within the appeal property, I do not find it unreasonable to assume that there would be window dressings at the bedroom window which would further mitigate against any overlooking.

9. I saw during my site visit that the unmade lane which leads to the front of the appeal building also provides access to two garages located to the east of the appeal property and to a narrow footpath which runs along the rear gardens of Wray's Buildings to the west. Consequently, pedestrians accessing the rear of Wray's Buildings would pass directly in front of the ground floor window of the appeal property. Furthermore, the proximity and size of the ground floor window would offer the occupants of vehicles entering and egressing the adjacent garages and lane full and unrestricted views into the ground floor living spaces.

10. Acknowledging that the ground floor window would provide the principal source of natural daylight and outlook to the main habitable areas of the appeal property I consider its openness and proximity to passing pedestrians and vehicles to be unacceptable in terms of outlook and privacy. Whilst I do accept that future residents of the appeal property could choose to dress the window with a privacy screen, this in itself would result in a darkened, internal living space that would be detrimental to the living conditions of future residents.

11. I note the Council's concerns in relation to the amount of external amenity space attributed to the appeal property. The appellant asserts that the proposed outdoor space would facilitate seating for four people and storage for two bins. Whilst I accept that future residents could physically sit outside, they would share an area of around five square metres with refuse bins. There would be insufficient space to provide for even a small household's requirements namely recreation, drying clothes etc. In addition, owing to its size, tall perimeter treatment and orientation the proposed outdoor amenity space would feel enclosed and for large parts of the day it would be in shade.

Therefore, I do not consider it to be acceptable in living conditions terms. Proximity to public open space whilst noted would not provide for the household's everyday needs.

12. As a result, I consider that subject to the proposed mitigation measures at first floor, the living conditions of the occupiers of no. 10 Wray's Buildings in relation to privacy would be acceptable. However, I consider that for the reasons outlined above the outlook and privacy of the future occupiers of the appeal building would be significantly adversely affected by the openness and proximity of the ground floor front window to the public realm. Furthermore, the proposed private amenity space would be of insufficient size and quality to provide acceptable living conditions. This would be contrary to the design and living conditions requirements of Policies CS10 of the Wakefield Local Development Framework, Core Strategy 2009 (CS) and Policy D9 of the Wakefield Local Development Framework, Development Policies Document 2009 (LDFDP).

Planning Balance and Conclusion

13. The Framework states that applications for planning permission should be determined in accordance with the development plan, unless material considerations indicate otherwise. The Framework is a material consideration.

14. The development plan for the area comprises the CS and LDFDP which predate the current Framework. However, the Framework makes it clear that existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of the Framework. Due weight should be given to them according to their consistency with the Framework. Policies CS10 and D9 are generally consistent with the design and amenity aims of the Framework. Paragraph 11(d) of the Framework states that, where such policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

15. In the context of the development plan, I have found that the proposed development would not provide acceptable living standards to proposed occupants with regards to private amenity space, outlook and privacy.

16. Turning to the benefits of the proposed development, it would provide one additional dwelling with some limited economic and social benefits derived from its conversion and occupation. I also recognise that the site is located within an existing residential area with good access to local services and facilities. These benefits are tempered by the limited amount of development that is proposed. The aforementioned benefits are positive matters to weigh in the overall planning balance.

17. On balance, I conclude that the identified adverse impacts of the proposed development would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework taken as a whole. Therefore, and taking into account all other matters raised, I conclude that the appeal should be dismissed.

J Hunter

INSPECTOR