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## Appeal Decision

Site visit made on 2 September 2020

**by J Hunter BA (Hons) Msc MRTPI**

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

**Decision date: 14<sup>th</sup> September 2020**

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**Appeal Ref: APP/Z4718/W/20/3254041**

**47-51 Mina House, Daisy Hill, Dewsbury WF13 1LF**

- 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 Harjoth Sekhon against the decision of Kirklees Metropolitan Borough Council.
  - The application Ref 2019/62/93914/E, dated 2 December 2019, was refused by notice dated 8 June 2020.
  - The development proposed is described as alterations to convert vacant unit (A1) to form 5no apartments (C3).
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. Part E of the appeal form states that the description of development has changed from the application form. This revised wording is reflected in the decision notice of the Council and given its use by both parties I have used the revised description in the banner heading above as it more succinctly and accurately describes the proposal. I have however, omitted reference to the Conservation Area as it is superfluous.

### Main Issues

3. The main issue is whether the proposed development would provide appropriate living conditions for future residents with regard to daylight, privacy, outlook and noise.

### Reasons

4. The appeal building is a three-storey stone faced building flanked by two storey properties. The site lies on a relatively narrow street, very close to the town centre and as such the area is characterised by mixed use commercial and residential development.
5. I acknowledge that the upper floors of the appeal building have consent for residential conversion obtained via the prior notification procedure. The appeal proposal would see the conversion of the ground floor of the building to provide two apartments and an entrance vestibule at the front, overlooking Daisy Hill and a further three apartments to the rear of the property facing onto School Street.

6. The appeal building has a very deep floor plan and the resulting form of the proposed apartments would be narrow and deep with relatively few external openings. Apartments 1 and 2 would have full height windows fronting onto Daisy Hill and in very close proximity to passing pedestrians and vehicles. I consider that due to the deep floor plan, north facing aspect, the internal configuration and the limited window openings, albeit full height, there would be insufficient natural daylight into the rear part of the apartments.
7. The Council has raised concerns regarding the lack of defensible space between the apartments and the public realm with regards to overlooking. In response, the appellant has suggested the use of one way privacy glass however, I find that whilst specialist glass prevent overlooking in a physical sense, there would still be a perception of overlooking because residents would be in very close proximity to passers-by and would experience pedestrians and vehicle passengers looking toward the windows at very close quarters.
8. Apartments 3-5 would be located to the rear of the building. Apartment 3 would have a full height window in the southern elevation as well as three relatively large west facing windows. I am satisfied that these windows would allow sufficient daylight into apartment 3. However, the windows on the western elevation would overlook the blank gable of an adjacent building, less than 3 metres away resulting in a very poor outlook for future residents.
9. Apartments 4 and 5 would have a south facing aspect with a series of windows positioned above head height and a narrow full height window below. I consider that the size and positioning of the windows on the rear elevation coupled with the deep floor plan and internal configuration would lead to some dark and uninviting internal spaces that would be detrimental to the living conditions of the occupiers. In addition, whilst there would be some limited outlook onto the rear access road and adjoining carpark to the rear via the single full height windows, the raised sill height at the majority of the windows would offer an extremely poor outlook.
10. The layout of the proposed apartments within the existing ground floor would leave a central area of space which, based upon the information before me, would be utilised as a communal breakout/games area and provide access into the to the apartments. The Council raise concerns regarding the level of natural daylight into this area and comment on the lack of information regarding its upkeep and maintenance. However, whilst I appreciate that the relatively small windows on the eastern elevation would provide a limited amount of natural daylight, the space would not be a habitable room and consequently reduced daylight would not impede the living conditions of occupiers to a significant extent.
11. In terms of the maintenance and upkeep of the communal space, I consider that a building management plan could be secured via a suitable worded planning condition which would set out the management arrangements for the space. Similarly, a condition requiring a noise assessment and mitigation strategy as suggested by the Environmental Health Officer would address the Council's concerns with reference to the potential for noise disturbance from adjoining uses. Although I acknowledge that some of the buildings close to the appeal site are either empty or already in residential use. Therefore, in this respect I am satisfied that any noise disturbance could be suitably mitigated subject to an appropriate condition and would therefore meet the residential

amenity requirements of Policy LP15 of the Kirklees Local Plan Strategy and Policies 2019 (LP) with regard to noise.

12. Notwithstanding the above, I find that when considered as a whole the proposal, by virtue of its internal configuration, design, orientation and proximity to the highway would fail to provide appropriate living conditions to future occupiers with reference to daylight, privacy and outlook. Accordingly, it would not meet the design and residential amenity requirements of Policies LP15 and LP254 of the LP.

### **Other Matters**

13. The appeal property is located within the Dewsbury Conservation Area and as such I have regard to the statutory duty referred to in Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the decision maker to pay special attention to the desirability of preserving and enhancing the character or appearance of Conservation Areas. There is a relatively broad mix of materials and finishes to the properties surrounding the appeal site and I note that the proposal indicates the use of coursed stone to match the surrounding area. This coupled with the relatively minor external alterations and reuse of existing openings would have a neutral effect and would therefore preserve the character and appearance of the CA. I note that the Council does not raise any concerns in this regard.

### **Conclusion**

14. For the reasons outlined above and taking into account all other matters raised I consider the appeal should be dismissed.

*J. Hunter*

INSPECTOR