



Appeal Decision

Site Visit made on 27 May 2021

by A M Nilsson BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th June 2021

Appeal Ref: APP/N4720/W/21/3269673

52 Dawlish Road, Osmondthorpe, Leeds LS9 9DS

- 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 Thomas O'Hearne against the decision of Leeds City Council.
 - The application Ref 20/04052/FU, dated 25 June 2020, was refused by notice dated 8 January 2021.
 - The development proposed is change of use from a single dwelling (C3) to a HMO (C4).
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Decision

1. The appeal is allowed and planning permission is granted for change of use from a single dwelling (C3) to a HMO (C4) at 52 Dawlish Road, Osmondthorpe, Leeds, LS9 9DS in accordance with the terms of the application, Ref 20/04052/FU, dated 25 June 2020, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Floors and Elevations Drawing Number 05 Revision 1.
 - 3) Notwithstanding the details already provided, before the development is first occupied full details of secure (and covered) cycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved cycle parking facilities have been provided. The facilities shall thereafter be retained for the lifetime of the development.

Application for costs

2. An application for costs was made by Mr Thomas O'Hearne against Leeds City Council. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether the proposed development would provide acceptable living conditions for future occupants with specific regard to layout.

Reasons

4. The appeal site comprises a two-storey terraced property that has a converted roof space and a basement level, giving accommodation over 4 floors. It is located within a residential area of close-knit terraced properties.

5. The proposed development would involve the creation of a three-bedroom house in multiple occupation (HMO). There would be a communal kitchen and dining area and a shared laundry room and rear yard. A ground floor bedroom would be directly accessed from the front street and given the proposed layout the main access would be to the rear of the property. Each bedroom would have its own bathroom.
6. An HMO is typically a small shared house occupied by between three and six unrelated individuals, as their only or main residence, who share basic amenities such as a kitchen or bathroom. The Council refer to the lack of a living room, combined with the size of the kitchen area in their consideration that this is one aspect of the proposed development that results in unacceptable living conditions.
7. On this point, reference is made to the Draft Supplementary Planning Document (SPD) Houses in Multiple Occupation, Purpose-Built Student Accommodation and Co-Living Amenity Standard (2020). The Council have outlined that the draft document has been through public consultation but has not been formally adopted by the Council. As a result the document may yet be subject to further modifications and although it is a material consideration, I give the Draft SPD limited weight in the appeal.
8. Other than the Draft SPD, to which I give limited weight, there is no other planning requirement before me for the provision of a dedicated shared living room. In this case, I find that the size of the bedrooms that are proposed, in conjunction with their own bathrooms, reduce the significance of the provision of larger shared rooms. When taken as a whole, residents would share the kitchen, in which dining and congregation between occupants may be undertaken, the laundry and the outside space. Should future occupants so wish, they may invite other occupants or guests to their own rooms.
9. I therefore do not consider that in this case, and in view of the lack of an adopted policy, the absence of a dedicated living room automatically equates to unacceptable living conditions, when the dwelling is considered as a whole and its intended future occupants.
10. Reference is made to the provision of a ground floor bedroom that the Council consider would be subject to noise, disturbance and an unacceptable level of privacy. Although it would look directly onto the street and there is no defensible space at the front of the property, I find that this is not an uncommon arrangement in close-knit terrace properties. Such views into properties are typically glimpsed views by passers-by rather than any prolonged sense of overlooking. There will inevitably be occasions where occupants may want more privacy, where the use of blinds or curtains would be likely. I do not however consider that this is unreasonable and would be a likely scenario for many rooms in many properties in dense urban areas such as this. I accept that the imposition of obscure glazing or film would have implications for the outlook from the room, however as I have found that the impact on privacy would not be unacceptable, such an intervention is not necessary.
11. There is also no evidence that this room would be somehow subjected to unacceptable noise levels simply due to its location on the ground floor at the front of the property, even with windows open for ventilation.

12. The front access of the property would solely serve the ground floor bedroom resulting in the rear access being utilised by the other occupants. The Council also comment that this would result in deliveries being required to be taken at the rear. Although I accept that there are practical issues in terms of deliveries etc, they do not amount to the demonstration of unacceptable living conditions. Similarly, the use of the rear access would be over a relatively short length of the rear lane, that I observed had streetlighting installed. On the whole, boundary treatments to surrounding properties are relatively low allowing for some natural surveillance, and overall I do not consider that the use of the rear access, or the limited use of the front access, results in unacceptable living conditions. There is no substantive evidence that use of the rear access would give rise to unacceptable levels of noise and disturbance.
13. I therefore conclude that overall, based on the evidence before me, the proposed development would provide acceptable living conditions for future occupants with specific regard to layout. As a result, it would comply with Policies H6 and P10 of the Leeds Core Strategy (Review 2019) and Saved Policy GP5 of the Leeds Unitary Development Plan (2006). Collectively, these policies seek, amongst other things, to ensure that development provide acceptable levels of amenity, including in HMO's.
14. The proposal would also comply with the National Planning Policy Framework that outlines, amongst other things, that planning decisions should ensure that developments create places with a high standard of amenity for existing and future users.
15. Although there would be conflict with the Draft SPD, owing to the limited weight afforded to the document, this would not provide reason to dismiss the appeal in light of the compliance I have found with the statutory development plan.

Other Matters

16. Representations submitted refer to the impact of the development on the living conditions of surrounding residents and parking. There is no substantive evidence before me that the proposed development would have an unacceptable impact on the living conditions of surrounding residents or highway safety in relation to parking. Furthermore, these matters are not pertinent to the main issue.
17. Similarly, there is no substantive evidence that the proposed development would lead to overpopulation or unacceptable pressure on doctors or schools, particularly given its established use as a dwellinghouse.
18. The issue of impact on property values has also been raised. It is a well-founded principle that the planning system does not exist to protect private interests such as value of land or property.
19. There is also no substantive evidence that the development would have an unacceptable impact on the character of the area, or that the demographic of future occupants would cause harm.
20. That the appellant is a landlord intending to let the property is not a reason to dismiss the appeal. Similarly, each application and appeal must be determined on its individual merits, and a generalised concern that allowing the appeal

could set a precedent for similar developments does not justify withholding permission in this case.

21. Reference is made to ongoing works at the property causing noise and parking disturbance. I am not provided with substantive evidence in relation to either matter. Although development works are capable of causing some disruption this would be temporary and not a reason to dismiss the appeal.

Conditions

22. I have considered the suggested conditions put forward by the Council in relation to the tests in the Framework and the guidance in the Planning Practice Guidance.
23. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty.
24. Although cycle parking is indicated on the submitted plans to be in the basement, this is not practicable. Hence, a condition that, notwithstanding the submitted plans, details of cycle parking should be submitted for approval is necessary in the interest of promoting sustainable travel.
25. The appellant has indicated that refuse storage would be provided in the rear yard. As I find such an arrangement to be acceptable, it is not necessary to impose a condition requiring the submission of details of refuse storage.

Conclusion

26. For the reasons outlined above, and having had regard to all other matters raised, the appeal is allowed.

A M Nilsson

INSPECTOR