



Appeal Decision

Site Visit made on 15 June 2021

by F Wilkinson BSc (Hons), MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th July 2021

Appeal Ref: APP/N4720/W/20/3260504

23 Sefton Avenue, Beeston, Leeds LS11 7BA

- 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 Goodchild against the decision of Leeds City Council.
 - The application Ref 20/04772/FU, dated 3 August 2020, was refused by notice dated 28 September 2020.
 - The development proposed is conversion of an existing basement into a proposed one bedroom dwelling.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I did not have access into the appeal property. However, the evidence provided by the parties and the submitted plans provided sufficient information on which to base my decision.

Main Issues

3. The main issues are as follows:
 - whether the proposed development would provide acceptable living conditions for future occupiers with regard to internal space, outlook, levels of daylight and sunlight, outdoor amenity space and disturbance; and
 - the effect of the proposed development on the living conditions of neighbouring residents with particular regard to noise, activity and disturbance.

Reasons

Living Conditions for Future Occupiers

4. The appeal property is a red brick terraced property with dormer windows to the front and rear. It is located in a mainly residential area comprising similar terraced dwellings. From the evidence submitted and my own observations, it appears to be in use as 3 flats. The proposal is to convert the basement into a new dwelling.
5. The Council has assessed the space requirements on the basis of the proposed development being a 2 person dwelling. The appellant states that, at 48 square metres (m²), the proposed development meets the requirements of a one person unit set out in Policy H9 of the Leeds City Council Core Strategy (as amended by the Core Strategy Selective Review 2019) September 2019 (the

- CS). The space standards described in Policy H9 of the CS state that in order to provide 2 bedspaces, a double (or twin bedroom) should have a floor area of at least 11.5m². From the evidence before me, the bedroom floor space would be around 16.8m². Consequently, I have assessed the proposed development based on it providing 2 bed spaces for 2 persons. On this basis, in providing a dwelling size of approximately 48m², the proposed development would not meet the requirements of Policy H9 of the CS, which requires 50m² for a one bedroom, 2 person, one storey dwelling.
6. The appellant has stated that were the chimney breast to be removed, the proposed development would achieve 50m² which is the requirement for a 2 person dwelling set out in Policy H9 of the CS. However, I have no evidence before me to demonstrate that this space standard would be achieved or what configuration the proposed dwelling would take as a result. I have therefore based my decision on the plans on which the Council made its decision and that are before me.
 7. Based on the evidence presented, the floor space of the appeal property as a whole would exceed the minimum internal floor space required by Policy H6 of the CS in terms of the acceptability of conversion of houses to flats. However, the proposed development would not comply with the space requirements set out in Policy H9 of the CS for a 2 person, one bedroom, one storey dwelling. Although the shortfall in floor space provision would only be moderate, it nevertheless would represent an oppressively confined form of residential accommodation.
 8. The rear living room window and the front bedroom window would be at basement level and would be in close proximity to and face directly onto the lightwells that would be created. These are the only windows shown to be serving the proposed dwelling. This arrangement would provide an undue sense of enclosure for occupants. The boundary wall to the front and rear of the appeal property would further restrict the outlook from the windows and exacerbate the sense of enclosure. As such, it is likely that the living accommodation would be an unduly oppressive space and would fail to provide acceptable living conditions for future occupants with regard to outlook.
 9. The bedroom to the front of the appeal property would face north west and the living room to the rear would face south east. The kitchen would be set behind the entrance to the dwelling off the living room. For the same reasons as set out above I am not convinced that the proposed development would provide adequate levels of daylight and sunlight for occupiers. Although the windows would allow some daylight and sunlight penetration, it is unlikely that light would reach all of the living accommodation. This is especially the case for the proposed bedroom given its orientation and the kitchen given its location within the proposed dwelling. It is therefore likely that artificial light would be required for much of the day to undertake many of the usual household tasks.
 10. The appellant has stated that it would be possible with agreement to make the windows larger to achieve additional light to the internal accommodation. However, no evidence is presented on what this would mean for the design of the proposed development or what daylight or sunlight levels may be achieved. Accordingly, on the basis of the plans and evidence submitted, I find that the proposed development would fail to provide adequate living conditions for

future occupiers with regards to the provision of daylight and sunlight within the internal living space.

11. The appeal property has limited outdoor amenity space. The area of usable space would reduce further with the introduction of the proposed lightwells to the front and rear. No evidence has been presented on the arrangements for the use of the outdoor amenity space so it is unclear whether future occupiers of the proposed dwelling would have access to it and whether it would be shared by all occupiers of the appeal property.
12. The appellant acknowledges that the outdoor amenity space is limited due to the curtilage of the appeal property, but highlights that all the houses in the area have gardens less than what would be required. I accept that the size of the outdoor amenity space is similar to other terraced dwellings located in the vicinity. However, the amenity space at the appeal property could be shared by up to 4 individual households which would be different in nature to the space being used by a single family. As such, the proposed development would provide inappropriate outdoor amenity space for future occupiers in terms of its usability and function. Whilst I accept that there is potential for occupants to use facilities at the nearby Cross Flatts Park, this would not be a reasonable alternative to the use of appropriate privately accessed outdoor amenity space.
13. The Council has identified concern about the potential for disturbance from adjoining residential units although has provided little information on where this concern stems from. The proposed dwelling would be at basement level and the proposed windows would be close to the front and rear doors and steps that provide access to the remainder of the appeal property. It is therefore likely that future occupiers would experience some disturbance from people entering and leaving the appeal property. The appellant states that sound proofing measures would be proposed as part of the building regulations process. Whilst this may overcome the potential for sound transmission between the proposed dwelling and the upper floors of the appeal property, it would not mitigate the disturbance from the comings and goings at the entrance to the property. Although such disturbance would cause only moderate harm and is not determinative in itself, it adds support to my finding that the proposed development would not provide acceptable living conditions for future occupiers.
14. For the reasons above, the proposed development would fail to provide acceptable living conditions for future occupiers with regard to internal space, outlook, levels of daylight and sunlight, outdoor amenity space and to a lesser extent disturbance. As such, the proposed development would conflict with Policies H6, H9 and P10 of the CS. These policies seek to ensure that the conversion of houses to flats provides satisfactory living accommodation in terms of internal space, daylight and outlook and supports development that protects residential amenity through high quality design that protects useable space and satisfactory penetration of sunlight and daylight, amongst other matters. It would also conflict with Policies GP5 and BD5 of the Leeds City Council Unitary Development Plan (review 2006) (the UDPR) which seek to protect amenity including usable space and satisfactory penetration of sunlight and daylight. The proposed development would also conflict with the objectives of the National Planning Policy Framework (the Framework) which seek to achieve well-designed places.

Living Conditions of Neighbouring Residents

15. The conversion of the basement into an additional dwelling would represent a further intensification in the use of the property. However, the increase in the number of occupiers by up to 2 would be small. The intensity of the additional comings and goings to the appeal property from the additional occupiers, together with the activity associated with day to day living activities would result in an increase in noise and disturbance, including to occupiers of the flat above, which has a window near to the proposed entrance. However, the appeal property is quite a large house that could accommodate a relatively large family. The level of activity and general noise and disturbance created by 2 additional occupiers would not be significantly different to that from one large household occupying the appeal property. I am therefore of the view that the effects on the living conditions of existing residents, including those in the accommodation above, would not be significantly harmful.
16. The Council is concerned that the current proposal could set a precedent for other similar developments nearby. In support of this concern, the Council has identified in its Officer Report that a number of properties on Sefton Avenue have been converted into flats and that the appeal property lies in an HMO article 4 area which covers those areas of the city where there is likely to be pressure to convert and sub divide dwellings. I acknowledge that if a significant number of properties in the area were permitted to convert their basements into similar accommodation, then cumulatively, there could be significant harm to the living conditions of existing residents through more intensive use. However, I have no compelling evidence to suggest that conversions like the appeal proposal will occur to such an extent and I therefore give the risk of setting a precedent limited weight, and it does not alter my conclusion on this issue.
17. Accordingly, I find that, although there would be some increase in noise, activity and disturbance as a result of the intensification in the use of the appeal property, this would not be excessive. The proposed development would not therefore have an unacceptable effect on the living conditions of neighbouring residents due to noise, activity and disturbance.
18. As such, the proposed development would not conflict with the residential amenity requirements of Policy P10 of the CS or Policy H6 of the CS which requires, amongst other matters, that the impact on neighbouring dwellings due to conversion of houses into flats should not likely be detrimental to the amenity of their occupants by virtue of the conversion alone or cumulatively with a concentration of converted dwellings. There would also be no conflict with Policy GP5 of the UDPR which seeks to avoid loss of amenity. The proposed development would accord with the guidance in the Leeds City Council Supplementary Guidance No. 6 Development of Self Contained Flats 1999 and the Framework which seeks to ensure a high standard of amenity for existing residents.

Conclusion

19. The proposed development would fail to provide acceptable living conditions for future occupiers of the proposed dwelling with regard to internal space, outlook, levels of daylight and sunlight, outdoor amenity space and to a lesser extent disturbance. I have found that the proposed development would not cause unacceptable harm to the living conditions of neighbouring residents due

to noise, activity and disturbance. This is a neutral factor and does not outweigh the harm caused by the failure to provide acceptable living conditions for future occupiers.

20. The proposed development would conflict with the development plan taken as a whole. There are no material considerations that indicate the decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

F Wilkinson

INSPECTOR