



Appeal Decision

Site visit made on 28 June 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2021

Appeal Ref: APP/N4720/W/21/3272075

**Land adjacent to the former Swan With Two Necks - Easting 429298
Northing 435406**

- 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 Muhammed Nazir Bhatti against the decision of Leeds City Council.
 - The application Ref 20/04117/FU, dated 6 July 2020, was refused by notice dated 30 September 2020.
 - The development proposed is 6nr two bedroom flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has been altered from the application form to the decision notice. That on the application form however adequately describes the proposals and I have determined the appeal on that basis.
3. The appellant submitted an amended plan as part of the appeal, to be substituted for the relevant plan as decided by the Council. The substantive changes introduced by the amendment relate to alterations to the ground floor, many of which are internal in association with seeking to provide the ground floor flats as accessible units. Given the nature of the changes, I am satisfied that dealing with the appeal on the basis of the amended plan would not prejudice the interests of any party.
4. Even were this not the case, nothing within the evidence suggests that a condition could not be added to secure provision of accessible flats to meet the requirements of part M4(2) of the building regulations. The proposal would not therefore need conflict with Policy H10 of the Core Strategy – Selective Review (2019) (CS).

Main Issues

5. The main issues therefore are:
 - i. the effect of the proposal on the character and appearance of the area,
 - ii. whether the omission of on-site car parking provision would be acceptable,

- iii. the effect of the proposal on the living conditions of existing and future occupiers,
- iv. whether the proposal would provide adequate cycle, bin, and servicing arrangements,
- v. the effect of the proposal on climate change and air pollution; and
- vi. the effect of the proposal on biodiversity interests.

Reasons

Character and appearance

- 6. The proposal would provide 6no. flats each containing two bedrooms within a single building. It would occupy the majority of a currently vacant cleared site situated adjacent to the former Swan with Two Necks Public House between Raglan Road and Marsh Street, a short distance to the north of Leeds City Centre.
- 7. The building would replicate the three-storey form of that adjacent. It would incorporate a pitched roof and would have a regular appearance, incorporating regular solid to void ratios. The form, nor design or the positioning of the building would warrant concern, particularly given the mixed character of the surrounding development, where the close proximity of buildings to the pavement is not uncommon. The building that is proposed would therefore have no unacceptable adverse impact on the character and appearance of the area.
- 8. I therefore conclude on this matter that the proposal would comply with Policies P10 and P12 of the CS which amongst other things require good design appropriate to its location and the conservation and enhancement of the townscape. The proposal would also comply with Policies GP5, N25 and LD1 of the Leeds Unitary Development Plan (2006) (UDP) which amongst other matters also require high quality design and outline the requirements relating to boundary treatment and landscaping.

Car parking

- 9. New development is required to incorporate parking provision. The required level is set out within SPD¹ guidance but this indicates that there is some flexibility with regards to parking provision. The benchmark car parking provision in line with the guidance would be between 8.5 and 10 spaces.
- 10. The guidance does however allow scope for a reduced parking provision noting that location, availability, and quality of public transport as well as availability of on street parking, amongst other matters, may influence car ownership. It states that a reduced parking provision could be acceptable where car ownership would be lower than average.
- 11. Given the combination of close proximity to the City Centre and the close availability of a wide range of bus routes, I consider that car ownership would be lower than average for prospective residents of the development compared

¹ Street Design Guide – Leeds Local Development Framework – Supplementary Planning Document – Main Report- August 2009.

to residents in outer areas of the City. The reduction to zero parking provision would be a very large jump from the benchmark.

12. Whilst this may be the case, although it is suggested that there is significant parking pressure within the area, little evidence is included which would confirm that this is the case at this particular site. It is also the case that no clear link has been demonstrated between the lack of parking provision and potential detriment to highway safety.
13. The development site before me is situated on a side street where traffic volume and speeds appeared to be low, limiting the potential for conflict between anyone circulating looking for an on-street parking space and other motorists. On the basis of the evidence before me I cannot therefore conclude that the failure to provide on-site parking would have any significant adverse effect on highway safety or amenity.
14. The proposal would not therefore conflict with Policy GP5 of the UDP which amongst other things requires proposals to maximise highway safety nor policies P10 and T2 of the CS which amongst other things require parking provision for cars in accordance with current guidelines. I also do not find conflict with SPD guidance.

Living conditions

15. The evidence indicates that there would be a 15.7m gap between the bedroom windows of flats 1 and 3 of the proposal and bedroom windows on 4 Marsh Street. SPG guidance² outlines advice on separation distances. However, it outlines that account needs to be taken of local character implying that there is significant flexibility within the guidelines.
16. With regard to the on-ground situation, the bedroom window on 4 Marsh Street is set well back from the highway behind its own front garden offering a reasonable outlook over its own site.
17. Taking this into account, combined with the slightly different alignment of the elevations of both buildings and the highly urban location, where slightly lower separation distances could reasonably be expected, I do not find anything unacceptable with regard to the separation distance proposed. The proposal would not therefore result in any unacceptable adverse impact on the living conditions of existing or future occupiers.
18. The proposal would therefore accord with Policy P10 of the CS and policies GP5 and BD5 of the UDP which amongst other things require proposals that protect the residential amenity of an area. I have not found direct conflict with SPG guidance or other guidance³ on this issue.

Cycle, bin and servicing arrangements

19. The site would incorporate what would appear to be a paved area to its side elevation adjacent to the former public house. The plans indicate that bin and cycle storage could be accommodated within this area, although the details are limited. There is no reason that the arrangement, including means of servicing, could not be finalised through the addition of a condition were I minded to

² Neighbourhoods for living – a guide for residential design in Leeds – Development Department – 2003.

³ Designing for Community Safety: A Residential Design Guide – 2007.

allow the appeal. I do not therefore find that the proposal would have any unacceptable adverse impact with regard to bin or cycle storage.

20. In relation to this issue, the proposal would not therefore conflict with Policy GP5 of the UDP which amongst other things requires proposals to maximise highway safety nor Policies P10 or T2 of the CS which amongst other things require waste and recycling storage to be designed in a positive manner and be integral to the development.

Climate change and air pollution

21. Prior to being cleared, the evidence indicates that the site hosted predominately self-seeded trees and vegetation. Even so, while it is generally accepted that trees can play a positive role in the prevention of climate change through their absorption of carbon dioxide, taking into account the broader picture, the scale of the tree loss on the site would be very limited in this context. The removal of the trees could not therefore be considered to result in demonstrable harm in this respect.
22. The proposal would not therefore conflict with Policy P10 of the CS which requires amongst other things that development protects the general amenity of the area including in relation to air quality. I have not found conflict with Policy Land 2 of the Adopted Natural Resources and Waste Local Plan Development Plan Document (2013) which amongst other things requires the conservation of trees as there were no trees on the site at the time of my visit.

Biodiversity

23. The site is likely to offer limited ecological value in its previous or current form. However, Policy G9 of the CS, relates to biodiversity improvements. Amongst other things it states that development will be required to demonstrate that there will be an overall net gain for biodiversity commensurate with the scale of the development.
24. This requirement is also entrenched within National Policy. Conserving and enhancing the natural environment is a key theme within the Framework⁴. Amongst other things, paragraph 174 states that planning decisions should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity. It is therefore a matter which should be afforded significant weight.
25. PPG⁵ defines biodiversity net gain as works which deliver measurable improvements for biodiversity by creating or enhancing habitats in association with development. It states that biodiversity net gain can be achieved on-site, off-site or through a combination of on-site and off-site measures.
26. Opportunities for biodiversity improvement within the area are likely to be limited given its highly urban nature and the redevelopment of this site without the required biodiversity improvements either on or off site represents a missed opportunity. It would be very unlikely that the proposed single tree would offer net gain.
27. There is no mechanism before me to that would guarantee net gain through the delivery of an off-site scheme, and I therefore afford the suggestion of this

⁴ National Planning Policy Framework 2021.

⁵ Planning Practice Guidance Paragraph: 022 Reference ID: 8-022-20190721

by the appellant very limited weight. The proposal therefore fails to provide biodiversity net gain. It would therefore fail to accord with Policy G9 of the CS, and this conflict is a matter that I have afforded significant weight.

Other Matters

28. I note that similar matters to those before me were considered as part of the previous appeal decision (Appeal Ref: APP/N4720/W/15/3133115). Given that I do not have the plans for that proposal before me it is difficult to make an exact comparison between the two schemes. However, the evidence indicates that the design of the scheme has been altered.
29. It also suggests that there has been an increase in the separation distance between the proposed building and 4 Marsh Street. The previous inspector was content that four parking spaces were sufficient for the proposal. However, I cannot be certain that the highways conditions remain the same with regard to the previously identified on-street parking problems and I have made my own judgement on this matter based on the evidence before me.

Planning Balance

30. The proposal would bring about economic and social benefits including the redevelopment of a derelict urban site and contribution towards housing supply. However, such benefits should not be achieved at all costs, and there is nothing to indicate that this scheme could not be delivered while offering biodiversity net gain.
31. Material considerations do not indicate that the decision should be taken otherwise than in accordance with the development plan.

Conclusion

32. The appeal should therefore be dismissed.

T J Burnham

INSPECTOR