



Appeal Decision

Site visit made on 19 July 2022

by K L Robbie BA (Hons) DipTP MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2022

Appeal Ref: APP/Z4718/W/22/3293973

C2k Upholstery Ltd, Ward Street, Dewsbury WF13 2EH

- 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 Masiullah Kholwadia against the decision of Kirklees Metropolitan Council.
 - The application Ref 2021/62/93803/E, dated 27 September 2021, was refused by notice dated 1 February 2022.
 - The development proposed is first floor extension to existing unit.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. My site visit was initially scheduled as an access required site visit, although I was not able to proceed on that basis as no provisions had been made to facilitate access. However, having viewed the site and surrounding areas from publicly accessible vantage points on an unaccompanied basis, I am satisfied that I have seen sufficient of the site and its surrounds to determine the appeal, which I have done so accordingly.
3. Amended plans were submitted during the application. However, it is clear from the decision that the Council determined it on the basis of 2021-U1-WS-02B. So shall I.

Main Issue

4. The main issue is the effect of the proposed development on the living conditions of the occupiers of 14 Upper Cross Street (No.14) with particular regard to light and overshadowing.

Reasons

5. The appeal building is a single storey warehouse building, flanked by two and three storey buildings on a relatively narrow street which rises steeply off Bradford Road (A652). The area is generally characterised by mixed commercial development. There is, however, a small cluster of residential properties adjacent to the appeal site. The proposal would see an extra storey built above the premises to provide additional storage accommodation.
6. The mono-pitched roof of the proposal would rise from the rear towards the front of the appeal building. Although the roof would recede away from the upper windows of No.14, the proposal would add significant height to the existing building for a considerable length. The presence of the structure, would be akin to a very long flank wall, extending a considerable depth from

the rear of No. 14 close to both ground floor and first floor habitable room windows. The sheer proximity of the blank rendered wall of the development and its height and size would block day and sunlight into the rear facing habitable rooms of No. 14 and would make that living accommodation a much gloomier and less attractive space within which to spend time to the detriment of the occupiers of those rooms.

7. The garden of No.14 is separated from the rear of the appeal site by a narrow walkway serving the rear of 16 Upper Cross Street. Due to the orientation and height of surrounding buildings the garden of No. 14 is already substantially enclosed and overshadowed. The proposed extension would, nevertheless, introduce a substantial structure which would have a significant physical presence for the users of the garden. The proposal would exacerbate the existing overshadowing impact of the surrounding buildings and would mean that during the early part of the afternoon, the proximity of the blank wall of the development in this part of the site would result in an overbearing level of overshadowing to the detriment to its use as private amenity space. Given that the garden provides the only amenity space for the occupiers of No.14 it would have an unacceptably adverse impact on their living conditions with regard to sunlight.
8. I therefore conclude that the proposal would cause significant harm to the living conditions of the occupiers of 14 Upper Cross Street with regard to light and overshadowing contrary to Policy LP24 of the Kirklees Local Plan Strategy and Policies (2019) which seeks, amongst other things, to ensure that new development provides a good standard of amenity for neighbouring occupiers and extensions minimise their impacts on neighbouring occupiers.

Other Matters

9. I note that the appellant believes that the appeal premises were originally two storeys in height and the proposal would reinstate the building to it to its original form. However, I do not have any evidence that this was the case and does not lead me away from my above findings.
10. I acknowledge the appellant's apparent frustration at the Council's handling of the application. However, their administration of the application has no bearing on the planning merits of the appeal proposal before me.

Conclusion

11. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

KL Robbie

INSPECTOR