



Appeal Decision

Site visit made on 23 August 2022

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 21 November 2022

Appeal Ref: APP/N4720/W/22/3300260

7 Wellington Terrace, Bramley, Leeds LS13 2LH

- 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 L Dickson against the decision of Leeds City Council.
 - The application Ref 22/01144/FU, dated 15 February 2022, was refused by notice dated 29 April 2022.
 - The development proposed is described as 'change of use to HMO and installation of new window to basement (Part Retrospective)'.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to HMO and installation of new window to basement at 7 Wellington Terrace, Bramley, Leeds LS13 2LH in accordance with the terms of the application, Ref 22/01144/FU, dated 15 February 2022, subject to the conditions set out in the attached schedule.

Preliminary Matters

2. Whilst the name on the application form is simply 'Dickson', the appeal form has clarified that the appellant's name is Mr L Dickson.
3. The description of development, reflected in the heading, indicates that some works have already been carried out and others have not. That said, I have removed the word 'retrospective' from my formal decision as it is not an act of development.
4. The Council references 'Houses in Multiple Occupation', a draft Supplementary Planning Document (SPD). As the document remains to be formally adopted and it is unclear what, if any, consultation has taken place or whether representations have been made, it is of limited weight in the determination of this appeal.

Main Issue

5. The main issue is the effect of the proposal on the living conditions of the occupiers of the building with regards to outlook and natural daylight.

Reasons

6. No 7 Wellington Terrace is a stone built, back-to-back, mid terraced property. It is two-storey in height with a dormer extension at the front. Four bedrooms are located over three floors with the basement level being used as a kitchen/lounge space. There is a small yard area to the front with steps leading up to the front door.

7. The basement provides the only communal space within the property. It has two existing windows, a small light well adjacent to the front steps, and a window over the sink unit which is sited at the front of the building. The proposal includes enlarging both these windows and the installation of a further window beneath a new wrought iron staircase, to replace the existing steps. This would also require the cutting back of the paving slabs in front of the new window to create a light well.
8. The basement room has been painted white, with glazed white wall tiles and light, glossy, flooring tiles. The ceiling has a series of inset spotlights which were on at the time of my site visit, although I also viewed the room with the lights turned off. Although the ceiling in the basement is low, the size of the space and the use of white and glossy surfaces means that the room did not feel oppressive.
9. When standing in front of the existing larger window, I noted that there are clear views of the front elevation of the opposite terrace, and the yard area at the front of the house. It was also possible to view anyone walking past the house on the adjoining pavement or entering or exiting cars on the road. The additional proposed window and the changes to the existing windows, would enlarge these views. Although the outlook is limited, the additional window and enlarging the other two windows, would create a reasonable outlook for occupiers using the communal basement area.
10. I visited the site on a cloudy day in summer when daylight to the basement was higher than would be found through much of the year. The appellant has stated that as a back-to-back property that faces east, with no openings on the west, that the sun path even on 22 June at 12.35pm, would result in the property not receiving any direct sun to any openings on the front elevation of the dwelling.
11. The proposal has been designed so that this room has to maximise light levels to make it as bright as possible. The room has been planned to provide a space where occupiers of the building can congregate and prepare food in a comfortable environment. Although daylight into this space is restricted, the additional window and enlarging the other two windows, would improve light levels within the room. Whilst artificial lighting would likely be used for the most part when using the basement room, this is often the case in buildings orientated in such a location.
12. Therefore, in terms of the main issue, the proposal would provide adequate living conditions for the occupiers of the building in terms of outlook and natural daylight. Therefore, it would accord with Policy H6 (iv) of the Leeds Core Strategy, 2019 and saved Policy GP5 of the Leeds Unitary Development Plan, 2006.

Other Matters

13. The Council are satisfied that within the area family housing predominates over HMO accommodation, therefore it would not create a housing imbalance and would accord with Policy H6 (iii) of the CS. The Council also considers that whilst there would be a higher intensification of the property by virtue of the HMO use, this would not be significantly greater than if the property was used by a family.

Conditions

14. The Council has suggested conditions if the appeal was to be allowed. I have considered those with regard to the tests for planning conditions in the National Planning Policy Framework and the Planning Practice Guidance. As works have commenced on site there is no need for the standard implementation condition, although a condition ensuring that the proposed windows are constructed within 3 months of this decision is required to ensure the living environment is satisfactorily improved. In addition, a condition listing the plans is needed to provide certainty over what has been approved.
15. A condition is also required in order to address any amenity and parking issues by ensuring that cycle parking is provided; and that there is adequate and appropriate waste storage on site. Although such conditions have been suggested by the Council, the form of condition 3 needs to reflect that further details need to be submitted, approved and implemented so as to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted partly retrospectively and it is not possible to use a negatively-worded condition to secure the approval and implementation of these matters before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusion

16. For the reasons given above, considering the development plan as a whole and all relevant material considerations, the appeal is allowed.

M J Francis

INSPECTOR

Schedule of conditions

- 1) The development hereby approved shall be carried out in strict accordance with the approved plans: 'Location Plan', 'Proposed floor plans', Drawing no. PL/02 Rev: E, 'Proposed new staircase to entrance and new window to basement', Drawing no: PL/04, 'Section through existing kitchen window (showing proposed size increase)', Drawing no: PL/03.
- 2) The new window openings as shown on the approved plans shall be completed within three months of this permission.
- 3) Unless within three months of the date of this decision schemes for cycle parking, refuse and recycling bin storage, are submitted in writing to the local planning authority for approval, and unless the approved schemes are implemented within three months of the local planning authority's approval, the use of the site as a House in Multiple Occupation (HMO) shall cease until such time as schemes approved by the local planning authority are implemented.

If any of the schemes in accordance with this condition are not approved within six months of the date of this decision, the use of the site shall cease until such time as the schemes approved by the local planning authority are implemented. Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.