
Appeal Decision

Site visit made on 11 October 2022

by John Dowsett MA DipURP DipUD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 December 2022

Appeal Ref: APP/N4720/W/22/3295938

Land at Ings Lane/Gordon Mills, Guiseley, LEEDS, LS20 9FR

- 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 Matt Moran of Langdale Capital Holdings Limited against the decision of Leeds City Council.
 - The application Ref: 21/06758/FU, dated 27 July 2021, was refused by notice dated 20 January 2022.
 - The development proposed is described as: Demolition of existing electricity sub-station and construction of 6 no. 2 bedroom apartments with car parking.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the proposal is in a conservation area, I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Main Issues

3. The main issues in this appeal are:
 - The effect of the proposed development on the living conditions of the occupiers of the neighbouring property;
 - Whether the proposed development would provide suitable living conditions for the future occupiers; and
 - The effect of the proposed development on the character and appearance of the area, with particular regard to the Guiseley Conservation Area.

Reasons

Living conditions of the occupiers of neighbouring properties

4. The appeal proposals comprise the construction of a purpose built block of six flats on a site which is adjacent to a new residential development of eight houses. These houses were in the course of construction at the time I visited the site.
5. It is common ground between the parties that the appeal proposal would not result in a loss of privacy to the property on Plot 6 of the adjoining development. The Council's principal concern is the potential for an overbearing effect on the occupiers of Plot 6 arising from the size and position of the

proposed block of flats reducing the outlook from this property. I saw when I visited the site that whilst there is a window opening in the side elevation of the dwelling on Plot 6 facing towards the appeal site, this quite obviously serves a landing and not a habitable room. As a result, the proposed new building would have only a minimal effect on this window.

6. Although floorplans of the dwelling on Plot 6 have not been provided, it is clear from the submitted site plan drawing, which shows the adjacent development, that the position of the proposed new building and degree of separation from the dwelling on Plot 6 are such that it would not impose on views from windows in the rear elevation of Plot 6 or effect the outlook from these.
7. The proposed new building would, nevertheless, project past the line of the rear elevation of Plot 6 and would be visible from the rear garden area of this building. The appellant suggests that this arrangement is similar to that which has been approved between Plots 4 and 5 on the adjacent development. This is certainly the case when looked at in plan form alone. However, the approved dwelling on Plot 4 is a similar height to those on Plots 5 and 6 and has a similar eaves height before the roof plane slopes back from the front elevation. I was able to see this relationship when I visited the site as both buildings, although unfinished, were at an advanced stage of construction. In contrast, the appeal building, despite being set at a slightly lower level than Plot 6 would, nonetheless, be approximately 0.9m taller than the house on Plot 6 and would have a higher eaves level to accommodate the two flats on the uppermost floor.
8. The proposed new building would be located approximately 5 metres from the common boundary with the existing house on Plot 6 and would extend beyond the rear elevation of that house by approximately 8 metres. This latter is greater than the frontage width of the dwelling on Plot 4, although the distance to the boundary is similar in both instances. The rear elevation of the proposed building would also run parallel to the majority of the common boundary. Due to the greater height and the longer elevation, the perceived size would be greater than that of Plot 4 which would, consequently, lead to an increased degree of enclosure of the rear garden of Plot 6.
9. Although the appellant asserts that no overshadowing of the rear gardens of the neighbouring houses would occur, the sun path diagram submitted as part of the appellant's Statement does indicate that during the afternoon through to early evening, the proposed building would cast a shadow over all or part of the neighbouring gardens. I recognise though that this would be less pronounced, but still noticeable, during the summer months when the sun is higher in the sky. I have noted the appellant's point that the rear gardens of the previously approved houses on Plots 2, 3 and 4 of the adjoining site would be overshadowed at certain times of day to a similar extent. However, in the case of these dwellings, the sun path diagram indicates that the shadow would be mainly cast by the house that occupies the same plot and not by a neighbouring building.
10. In combination, these two factors would have an adverse effect on the external space associated with the dwelling on Plot 6 and would be harmful to the living conditions of its occupiers.
11. I therefore conclude that the proposed development would cause harm to the living conditions of the occupiers of proposed development on the living conditions of the occupiers of the neighbouring property. It would not comply

with the relevant requirements of Policy P10 of the Leeds Core Strategy (2019 selective review) (hereinafter the Core Strategy) and Saved Policies GP5 and BD5 of the Leeds Unitary Development Plan (2006 review) (hereinafter the UDP) which, when read together, expect new development to protect the living conditions of surrounding properties with regard to, among other matters, satisfactory penetration of sunlight and daylight, and be designed with consideration given to both their own amenity and that of their surroundings.

Living conditions of future occupiers

12. The submitted drawings indicate that the rear elevation of the proposed building would be located approximately 5 metres from the boundary fence that is to be erected between the appeal site and the dwelling on Plot 6 of the neighbouring development. The appellant's evidence states that this elevation would be located approximately 8.3 metres from the side elevation of the adjacent house. The side elevations of the building would be located between 2 and 3 metres from the boundary with the former mill buildings to the south and the access road to the car park to the north.
13. The Council's Neighbourhoods for Living Supplementary Planning Guidance 2003 (updated in 2015) (the SPG) sets out that bedroom windows should be a minimum of 7.5 metres from a boundary of the property and 9 metres from the side elevation of a neighbouring property, although it does qualify this by stating that consideration should be given to local character when applying these distances.
14. The residential development in the near vicinity of the appeal site dates from the first half of the twentieth century and largely comprises semi-detached and terraced properties with a small number of detached dwellings. These are laid out around a series of distributor roads and culs-de-sac in a manner typical of earlier twentieth century suburban development resulting in fairly regularly spaced, linear, street frontages and relatively long rear gardens separating the houses from the properties to the rear, where present. The new development adjacent broadly follows this approach of houses laid out around a cul-de-sac separated from the older housing by a generous rear garden area. These developments conform generally to, or exceed, the separation distances set out in the SPG.
15. The application of separation distances serves to not only ensure that the privacy of existing and future occupiers is maintained but also that there is an acceptable outlook from the windows of habitable rooms. There are no flats in the area of housing around the appeal site, but there is nothing in the SPG that would indicate that flats are subject to any different criteria from other forms of housing.
16. Most of the principal living accommodation in the proposed development would be orientated so that it faces the railway line that passes the site and, as such, has an open aspect. However, there would be bedroom accommodation on the opposite side of the building (annotated as Bedroom 1 in each flat on Drawing number 2459A-06C). At ground floor level, these bedrooms have a principal window on the rear elevation that faces towards the property on Plot 6 of the neighbouring development and a secondary window in the respective side elevations of the proposed new building. The equivalent bedrooms on the upper floors have their principal window on the side elevation.

17. The submitted drawings indicate that a footway would run between the access road and the side elevation of the proposed building, passing close to the side window of the rear bedroom to Flat 1, and that there would be a 1.8 metre high close boarded fence located on the common boundary with the former mill buildings facing the side bedroom window of Flat 2. A similar boundary fence would separate the appeal building from Plot 6 adjacent.
18. Due to the proximity of the ground floor windows of the bedrooms to the boundary fences between the property on Plot 6 and the former mill buildings, which would fall short of the separation distances set out in the SPG, the outlook from these would be constrained. This view would be softened to an extent by the proposed laurel hedge shown on the landscaping plan, adjacent to the fences, although this would further reduce the perceived distance to the relevant boundaries. In addition, the secondary window to the bedroom of Flat 1 would be subject to direct overlooking due to its proximity to the footway and car park access road. The primary windows to Bedroom 1 in flats 3 and 5, whilst located higher in the building, would also have direct line of sight from the car parking area. These factors would lead to the living conditions of the future occupiers being compromised.
19. As noted above, the principal living accommodation in the proposed flats would be orientated towards the railway line that passes to the west of the appeal site and serves Guiseley Station. The Council's Environmental Health Officer has commented that noise levels from the railway would result in an unsatisfactory internal noise environment in the proposed flats. I have also noted that the Environmental Health Officer comments that this could be addressed through the use of acoustic glazing and a whole dwelling ventilation system. Whilst the Council accept that this could be achieved through a planning condition, the Council's suggested wording of such a condition is imprecise as it does not include sufficient detail to allow a reader to determine what would be required to comply with it. In particular, the suggested condition neither specifies the internal noise levels that any scheme would be expected to achieve, or alternatively the level of noise reduction expected to address a particular external noise source.
20. The Council have also expressed concerns regarding the effect that a requirement for sealed windows would have on the living conditions of the future occupiers. There are no policy or regulatory preclusions on sealed windows, however, Paragraph 127 of the Framework requires that new development should create places which promote health and well-being, with a high standard of amenity for existing and future users. The Planning Practice Guidance also identifies that if proposed noise mitigation relies on windows being kept closed, this may have an effect on living conditions and that care should be taken when considering mitigation to ensure the envisaged measures do not make for an unsatisfactory development. As no technical information regarding actual noise levels and the requirements for mitigation has been submitted, it is difficult to determine the effect any mitigation may have on the living conditions of occupiers.
21. The appellant has not made any submissions in respect of these matters other than to comment that they do not consider that the suggested condition is necessary and that no concerns were expressed regarding this in determining the original application. The Comments of the Council's Environmental Health

Officer are, however, included in the Planning Officer's report and discussed within the text of it.

22. No substantive evidence has been submitted by either party in respect of noise from the railway line. Nonetheless, the proximity of the proposed building to the railway line and the proposed configuration of the accommodation within are such that I consider that there would be potential for noise and disturbance from the railway. In the absence of any detailed evidence in respect of noise from the railway and any proposed mitigation measures, I cannot be certain that a suitable internal noise climate within the proposed new building can be achieved. This adds to my other concerns in respect of the living conditions of the future occupiers.
23. I have noted that there is no dispute between the parties as to whether the proposal provides suitable levels of internal floorspace and outdoor amenity space. However, this does not overcome the other shortcomings of the scheme.
24. I therefore conclude that the proposed development would not provide suitable living conditions for the future occupiers. It would not comply with the relevant requirements of Core Strategy Policy P10, Saved UDP Policies GP5 and BD5 and the SPG which, when read together expect new development to be appropriate to its function, designed to give consideration to the amenity it would provide to maintain appropriate distances between the new building, existing buildings, and the site boundaries.

Character and appearance

25. The appeal site comprises approximately 1726m² of land adjacent to Ings Lane on the outskirts of Guiseley. On the opposite side of Ings Lane, are fields with the only built development being the two storey brick and render 'The Ings' public house with its associated car park and a group of dilapidated farm buildings to the south west of the railway bridge. The historic Ordnance Survey maps included in the evidence indicate that the site was formerly part of the land associated with Ings Mill, later known as Gordon Mills. The site is adjacent to a railway line and at the north end, a stone bridge carries Ings Lane over the railway. Immediately adjoining appeal site, a small residential development of 8 dwellings arranged around a short cul-de-sac is currently under construction.
26. To the south west are large, stone built, former mill buildings which have been re-purposed for a variety of small business uses. A tall brick chimney rises above the former mill buildings. These former mill buildings are part of a larger group of former and current mill buildings strung out along Netherfield Road towards the town centre.
27. North east of the appeal site is an area of generally two storey, early to mid-twentieth century, housing constructed generally in brick and render under slate or tiled roofs. Roof forms are a mix of hipped and gabled roofs. Similar housing is present on the east side of Ings Lane to the south of the railway bridge.
28. The appeal site and the adjacent, under construction, development lie within the Guiseley Conservation Area as do the former mill buildings. The older housing areas to the north west and south east are beyond the conservation area boundary.
29. The conservation area covers an extensive area centred on the historic core of the town and has a mixed character, including commercial premises on Otley

Road and Oxford Road, and the textile mills on Netherfield Road, in addition to residential properties. The boundary is irregular in shape and the appeal site is contained within a projecting 'finger' that runs along Netherfield Road and encompasses the current and former mill buildings and a mixed terrace of back to back and through terrace houses on the north side of the road but excludes more recent residential developments. The boundary also includes The Ings public house, the railway bridge, and the derelict farm buildings on Ings Lane. Residential buildings within the conservation area are predominantly constructed in stone and are generally two to three storeys in height. The buildings are mostly terraced in form with pitched roofs. The mill buildings have larger plan form and greater storey height reflecting their original function.

30. The Guiseley Conservation Area Appraisal and Management Plan 2012 identifies the mill chimney as a principal landmark and this part of the conservation area is considered important as it houses the few surviving nineteenth century mills in the town. The former mill buildings are identified as making either a positive or neutral contribution to the conservation area and both The Ings public house and the derelict farm buildings are also identified as positive features.
31. Form the submitted evidence, the significance of the conservation area, in so far as it relates to this appeal, is the evidence that it provides of the evolution of the town from a medieval agricultural village, which later developed a domestic textile industry, and its subsequent transformation into an industrial mill town in the nineteenth century. This is observable in the road layout and through the building designs and typologies present. It is common ground that the appeal site currently has a negative effect on the character and appearance of the conservation area.
32. The appeal proposal is for a building of, effectively, three storeys where elements of the second floor would be partially within the roof space, with the exterior finished in coursed stone at ground floor level and render on the upper floors under a pitched roof covered with artificial slate. On the front elevation, two projecting bays, rising the full height of the building before breaking through the eaves line to terminate in gabled pitched roofs, would also be finished in coursed stone. These would each contain three French windows with metal 'Juliette' balconies. A centrally placed dormer would also break through the eaves line above the main entrance. The upper floor windows between the projecting bays and the dormer would wrap around the roof profile to incorporate a roof window. On the rear elevation a similar, slightly larger, central dormer would also break the eaves line. On each side elevation there would be three further, vertically stacked, French windows with metal balconies.
33. The building would sit in a landscaped area with two small private garden areas to the rear for the ground floor flats. To the north of the proposed building, provision would be made for 11 car parking spaces in addition to cycle and motorcycle parking provision and an enclosure for domestic bin storage. The proposed new building and its associated parking area would be accessed by way of an extension of the carriageway from the cul-de-sac head of the adjacent development.
34. In terms of its general external appearance and materials, the proposed building would not be dissimilar to the houses that are under construction on the adjoining site and was clearly influenced by these. The overall size, height and massing of the appeal proposal is larger than the unit sizes on the adjoining site

although as there is a change in level between the appeal site and the adjoining development the perceived height difference would be reduced.

35. From what I saw when I visited the site, the difference in size between the appeal proposal and the adjacent houses would only be particularly apparent from either the road bridge over the railway, or from within the parking area for the flats. In the former case, the appeal proposal would be seen in context with the larger former mill buildings beyond. In the latter, it would be apparent to any observer that the buildings were of different typologies and, again, the level changes between the sites would reduce the perceived height differences. Due to the relative positions of the appeal proposal and the approved houses, the longer façade of the appeal building would not be viewed directly alongside the front or rear elevations of any of the adjacent houses, which would make the size difference less obvious.
36. There is little evidence in the submissions that either the appeal proposal, or the adjacent recently approved development draw on design precedents from residential buildings elsewhere in the conservation area. However, there are clear similarities between these and the residential development in the near vicinity of the appeal site, which although not within the conservation area, nonetheless, form an integral part of its context. The appeal proposal would not, therefore, appear incongruous or alien.
37. The Council suggest that a lack of space around the proposed new building is inconsistent with and, consequently, harmful to the character and appearance of the conservation area. When I visited the site and the surrounding area, I also visited other parts of the conservation area and noted that in places, notably the area of back to back and terraced housing around Wells Road, there was a much denser built form with only small areas of amenity space associated with the houses. In this context, I am not persuaded by that line of argument.
38. The Council have also raised concerns in respect of the loss of tree cover at the site and the low number of trees proposed by the landscaping scheme. It is common ground that a number of trees were removed following the approval of a Tree Works Application to remove trees within the conservation area and it is also not in dispute that this approval did not require any replacement tree planting.
39. The appellant states that the removal of trees on the appeal site was carried out by the site owner prior to the appellant's involvement with the site and this is not contested by the Council. Whilst the Council contend that more trees were removed than allowed by the approved application, there is no substantive evidence before me in respect of the number of trees on the site previously or what contribution that tree cover made to the conservation area in terms of its character and appearance.
40. In this context, I do not consider that the tree removal was directly necessary to facilitate the development of the appeal proposal, and I do not consider that Policy Land 2 of the Councils Natural Resources and Waste Local Plan 2013, which is in any event not cited in the reasons for refusal, is applicable in this case.
41. The Council have not identified any features of significance in the conservation area which would be harmed by the proposal, and I saw during my site visit that the appeal proposal would not block any views of the mill chimney and would

not interfere with any key views identified in the Conservation Area Appraisal and Management Plan. Similarly, there is nothing in the evidence that would indicate that the appeal proposal would diminish the ability to understand or appreciate the function or historical importance of the former mill buildings to the south east of the appeal site.

42. As such, I find that the proposal would have an overall neutral effect on the character and appearance of the conservation area and would thus preserve its significance.
43. I therefore conclude that the proposed development would not cause harm to the character and appearance of the area, with particular regard to the Guiseley Conservation Area. It would comply with the relevant requirements of Policies P10, P11 and P12 of the Core Strategy; Saved Policies GP5, N19, N23, N25, and LD1 of the UDP; the guidance in the SPG; and the National Planning Policy Framework which, when read together, expect new development and its associated hard and soft landscaping to be of a high standard of design that has regard to its context and which preserves or enhances the character and appearance of conservation areas, including protecting the nationally significant industrial heritage of the area.

Conclusion

44. I have found that the appeal proposal would cause harm to the living conditions of neighbouring properties and that the proposal would not provide suitable living conditions for the future occupiers. The proposal is therefore contrary to the relevant requirements of a number of policies in the development plan. These are, to my mind, important matters and as such the proposal would be contrary to the development plan when taken as a whole, notwithstanding that I have found no harm to the character and appearance of the area or the significance of the Guiseley Conservation Area, and the proposal may comply with other policies in the development plan.
45. It is not argued that the relevant policies in the development plan are out of date, or that the Council cannot demonstrate a deliverable five year housing land supply, or that the Council is not delivering in terms of its housing targets. Whilst the National Planning Policy Framework seeks to significantly boost the supply of housing and encourages the re-use of previously developed land, the appeal proposal would only deliver a small number of additional dwellings and any benefits from this are not sufficient to justify permitting a scheme that would cause harm to the living conditions of the occupiers of neighbouring properties and not provide suitable living conditions for the future occupiers. No other material considerations have been identified which would indicate that a decision could be made otherwise than in accordance with the development plan. Consequently, the appeal must fail.
46. For the above reasons, I therefore conclude that the appeal should be dismissed.

John Dowsett

INSPECTOR