



Appeal Decision

Site visit made on 11 January 2023

by J Symmons BSc (Hons) CEng MICE

an Inspector appointed by the Secretary of State

Decision date: 13th March 2023

Appeal Ref: APP/N4720/W/22/3310150

Britannia House, 16 York Place, Leeds LS1 2EU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Iqbal of AS Plaza Ltd against Leeds City Council.
 - The application Ref 22/01976/FU, is dated 16 March 2022.
 - The development proposed is the creation of two rooftop penthouse apartments (resubmission of 20/07014/FU).
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Decision

1. The appeal is dismissed and planning permission is refused.

Applications for costs

2. An application for costs was made by Iqbal of AS Plaza Ltd against Leeds City Council, which is the subject of a separate Decision.

Preliminary matters and main issues

3. The description of development in the above header is taken from the original planning application form. However, during determination of the application and in response to consultation with the Council, the appellant submitted an amended design which removed the smaller apartment and amended the details of the larger one. The appellant also confirmed the proposal was now only for one apartment. The Council acknowledged the amended design but, due to a delay in processing this information, it is unclear as to the status of this amendment prior to the appeal.
4. Following submission of the appeal, the Council has provided a statement of case and acknowledged the amended design however, it indicates that the proposal would be unacceptable. It cites the adverse effect of the proposal on the character and appearance of the Leeds City Centre Conservation Area (CA) and, while slightly ambiguous in terms of effect, it also identifies harm to the living conditions of the existing neighbouring occupants in the rooftop apartments. Furthermore, it also raises concerns about whether the proposal would provide adequate refuse and cycle storage.
5. The amended design is for the lesser extent of development than set out in the original application, including the reduction in the number of apartments and an amended balustrade position. Parties have had an opportunity to comment on the amended design through the appeal process and consequently, I do not consider that any would be prejudiced by the acceptance of it. On this basis the appeal is determined on the amended design.

6. Reference is made to an earlier application for the proposal (22/07014/FU) which was withdrawn. This application is a separate matter which is not part of my assessment of the planning merits of this appeal.
7. Notwithstanding comments from an interested party indicating that the reference to studio apartments and the numbering to be incorrect on the plans, for ease of reference in my decision, I have used the third floor studio numbering shown on the Existing Plans, Drawing Ref 2033/A(PL)-05, in my decision.
8. The Council accept that the repositioning of the proposal's terrace balustrade overcomes the ability to overlook the terraces below. However, it raises concerns regarding the overhang of the extension to the existing rooftop apartments below and the likely impacts on the living conditions of the existing occupants within the rooftop apartment. This is a 'failure to give notice' case and so, in also taking account of specific living conditions concerns raised by existing neighbouring occupants of the third floor roof top apartments relating to the site, I therefore consider that the effects on privacy, outlook and sunlight require to be considered.
9. Based on the above the main issues are:
 - the effect of the proposal on the living conditions of the occupants of the existing neighbouring third floor roof top apartments relating to the site with regard to privacy, outlook and sunlight;
 - whether adequate refuse and cycle storage would be provided; and
 - whether the proposed development would preserve or enhance the character or appearance of the CA and setting of Listed Buildings.

Reasons

Living Conditions

10. The host building's third floor level consists of four penthouse apartments with external terrace areas. The roof to these apartments partially overhangs these terraces. The terrace areas facing York Place and Britannia Street are relatively open and have reasonable privacy from the surrounding buildings. The apartments and associated terraces are also set back from the rear and side adjoining buildings giving a reasonably open aspect.
11. The proposal would sit mostly on top of the host building's apartments. It would have external terraces facing York Place, Britannia Street, and part of the adjoining building to the side. Large patio doors would provide natural light into the apartment, and access onto the terraces. The proposal would also extend towards the side adjoining building (on York Place) to provide further living space, lift and stair access. This extension would include windows facing York Place and the rear area.
12. The proposed balustrade would be set back from the edge of the building's overhang and the Council consider this to be sufficient to prevent overlooking. I see no reason to question this. However, inclusion of the proposed side extension with its front and rear windows would likely allow overlooking of the terraces of the existing studio apartments 40 and 41. While the outlook from these windows would be oblique, due to the proximity and size of the windows

it would be likely that some loss of privacy would result. As these existing terraces are relatively small this would likely have a significant effect on them compared to the existing situation.

13. Outlook from most of the existing third floor apartments would be unaffected by the proposal. However, the proposed side extension would project into the rear area and in front of parts of the terrace and bedroom windows of the existing studio apartment 40. With its two-storey height and proximity, it would be a dominant and overbearing feature which would adversely affect the existing occupant's outlook compared to the existing situation.
14. Due to the orientation of the existing third floor apartments' terraces, the overhanging roof will already, to some extent, be shaded during parts of the day. However, with the proposal's height and positioning over the roof, it would be likely that an increase in shading to parts of the terraces of the existing studio apartments 40, 41 and 42 would occur. While the proposal's set back from the edge of the existing roof would assist in mitigating some of this impact, sunlight loss during parts of the day would be likely. As there is no substantive evidence to the contrary, I cannot be certain that the living conditions of neighbouring occupants in relation to sunlight would be acceptable.
15. In conclusion on this issue, for the above reasons the proposal would unacceptably affect the living conditions of the occupants of the existing neighbouring studio apartment 40 in respect of privacy, outlook and sunlight, apartment 41 in respect of privacy and sunlight and apartment 42 in respect of sunlight. In respect of this issue, the proposal would therefore be contrary to Policy P10 of the Leeds Local Development Framework Core Strategy 2014 (Core Strategy) and saved Policy GP5 of the Leeds Unitary Development Plan 2006 which seek, amongst other matters, for new development to protect the residential amenity of the area.

Cycle and Refuse Store

16. Leeds Street Design Guide Supplementary Planning Document 2009 (Street Design Guide SPD), sets out amongst other matters, that bin storage locations shall be clearly identified for all dwellings, with easy, level access from their storage location to the collection location. Policy T2 of the Core Strategy details, amongst other matters, that new development is required to provide cycle parking in accordance with current guidance. Guidance on cycle parking standards is set out in the Leeds Parking Supplementary Planning Document 2016 (Parking SPD) and this stipulates that the proposal would be required to provide one long stay bicycle parking space.
17. The existing development already has an external bin facility and secure underground vehicle parking area. Whilst detailed information regarding the cycle and refuse stores has not been provided, the addition of the proposal would require only a modest increase in these existing facilities. During my site visit I noted that there was sufficient space in both areas to accommodate the required addition of one unit's bin storage and one bicycle store. This matter could be appropriately secured through a planning condition. Consequently, the development could make adequate provision for cycle and refuse storage. Accordingly, there would be no conflict with Policy T2 of the Core Strategy or with the guidance set out in the Parking SPD and Street Design Guide SPD.

Character or appearance of the CA and setting of Listed Buildings

18. The appeal property sits at the prominent corner of Britannia Street and York Place and is within the Central Area of the Leeds City Centre Conservation Area (CA).
19. This part of the CA is built on a very strong grid street layout with the scale and character of the buildings varying from street to street. Britannia Street and York Place have a mix of historic and modern buildings, including older traditional and more modern façades which vary typically between three to six storeys in height. There is a wide variation in the roof height, types and finishes along both streets creating a fluctuating roofscape and skyline. Some of the buildings are set back behind railings and have step access. A number are also listed. The different architectural styles provide a clear definition of the separate buildings and provides a rhythm to the street scene. These elements contribute to the special architectural and historic interest and significance of the CA.
20. Due to the grid street layout, intervisibility with the listed buildings in the area and the proposal is restricted to those on York Place and Britannia Street. The heritage assessment (by HMS Town Planning & Urban Design dated March 2022) identifies the following Grade II listed buildings as being close to and overlooking the proposal as 30 York Place and attached railings (List Ref 1255618), 11, 12 and 13 York Place and attached railings (includes 8 Britannia Street, List Ref 1255613), 2 and 4 Britannia Street and attached railings (includes 72 Wellington Street, List Ref 1255849). The Council has not disputed this. As detailed in the heritage assessment, and as I observed during my visit, these buildings consist of a variety of architectural detailing, styles and materials. It is this variation that contributes to each buildings' interest and setting. They are very prominent and clearly definable in the street scene and reinforce the historic development of the streets and add to the character of the CA as a whole.
21. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. Furthermore, paragraph 199 of the National Planning Policy Framework 2021 (the Framework) requires that when considering the impact of the proposed development on the significance of a designated heritage asset, great weight should be given to the assets conservation. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering applications which affect Listed Buildings special regard is paid to the desirability of preserving the building and its setting.
22. The proposal would not alter a listed building or change the host building's façades or the rhythm of the street scene. It would add a set back rooftop apartment which would closely match the design of the existing apartments and roof. Due to the height and separation of the surrounding buildings, views of the roofline are not particularly obvious from ground level. The proposed additional storey would not be a prominent or highly visible feature when seen from the streets. It would blend with the existing style of the host building and be an unimposing addition to the roofscape. The provided computer-generated images still show the originally proposed smaller apartment which has been removed from the proposal. However, they also show from a number of

viewpoints how the proposed apartment fits into the streetscape and would preserve the adjacent and nearby listed buildings and their settings. Even though these images do not include the longer views on York Place, Britannia Street, at the end of Back York Place, and at the junction with King Street, as I saw during my visit, the proposal would have little effect on these viewpoints and not create any significant conflict with the surrounding roofscape.

23. For the reasons set out above, the proposal would preserve the character and appearance of the CA and the setting of the Listed Buildings.
24. Furthermore, in respect of this issue, the proposal would not conflict with Policies P10 and P11 of the Core Strategy which seek, amongst other matters, to ensure new development protects, enhances, and conserves the District's existing and historic assets. It would also not conflict with chapter 16 of the Framework which seeks to conserve and enhance the historic environment.

Other Matters

25. The appellant raises a number of concerns regarding the Council's handling of the application, including the lack of response, no agreed extension of times and delays in processing information submitted. However, these are a procedural matter between the appellant and the Council and do not affect the planning merits of the case.
26. While it is appreciated that the proposal is comparable to the existing use of the building and utilises vacant roof space to provide one additional residential unit, these factors do not outweigh the harm that I have found would be caused to the living conditions of the occupants of the existing neighbouring apartments.

Planning balance and conclusion

27. While I have found that the proposal would preserve the character and appearance of the CA and setting of the listed buildings and that cycle and refuse storage could be acceptably secured, I have found harm to the living conditions of the occupants of the existing neighbouring apartments. Although the dwelling would contribute to housing supply, be well-located with good public transport links, utilise brownfield land and provide economic benefit associated with construction and in the materials supply chain, these benefits would be limited given the proposed creation of only a single dwelling. The above harm that I have found would be caused by the proposal therefore would not be outweighed by these benefits.
28. For the reasons given above, I conclude that the appeal should be dismissed.

J Symmons

INSPECTOR