



Appeal Decision

Site visit made on 21 February 2023

by Thomas Shields MA DipURP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/N4720/C/22/3304136

21 Lowther Street, Leeds, LS8 5PH

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991 (hereafter "the Act").
- The appeal is made by Mr Omer Sadiq against an enforcement notice issued by the Leeds City Council.
- The enforcement notice was issued on 5 July 2022.
- The breach of planning control as alleged in the notice is without planning permission, the material change of use from a C3 residential dwelling to two self-contained flats.
- The requirements of the notice are:
 1. Cease the use of the dwelling as two self-contained flats within six months.
 2. Remove the kitchen units, work surfaces and any kitchen houseware/appliances from the first floor within one (1) month after step one.
 3. Remove all plumbing/fixture and fittings associated with kitchen houseware/appliances from the first floor within (1) one month after step one.
 4. Make good the walls on the first floor where the above items have been removed from within (1) one month after step one.
 5. Remove all the waste materials from the property within one (1) month after step one.
- The appeal is proceeding on the ground set out in section 174(2)(a) of the Act. Since an appeal has been brought on ground (a), an application for planning permission is deemed to have been made under section 177(5) of the Act.

Decision

1. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act for the development already carried out, namely the use as two self-contained flats at 21 Lowther Street.

Preliminary Matter

2. The terraced appeal property, 21 Lowther Street, has part of its first and attic floors sitting over part of the rear of the ground floor shop unit on Harehills Road. Although the red line of the enforcement notice does not reflect the true extent of the property, it is nonetheless accurately shown in the layout drawings submitted by the parties.

Appeal on ground (a) - deemed application for planning permission

3. The **main issue** in this appeal is whether conversion of the property into two self-contained flats would be an appropriate development at this location having regard to the Council's Development Plan policies.

Reasons

4. Flat 1 is located off the communal hallway behind the front door and occupies the ground and part of the first floor of the property, that being accessed from the flat's internal staircase. Flat 2, accessed via the original staircase off the communal hallway, occupies part of the first floor and the whole of the attic floor. A communal cellar off the hallway is available to all occupiers for storage or other domestic purposes.
5. Amongst other matters Policy P10 of the Leeds Local Plan Core Strategy (CS) seeks to ensure that the size, scale, design and layout of development is appropriate to its context and protects the visual, residential and general amenity of an area. This is broadly reflected in Policy GP5 of the Leeds Unitary Development Plan (Review) (2006) (UDP).
6. CS Policy H6, Part C, states that development proposals for conversion of existing houses into flats will be accepted where they meet all of the policy's criteria at (i) to (vii).
7. Part C(i) excludes conversions of back-to-back dwellings. However, the appeal property is not a typical back-to-back dwelling. Due to its end of terrace location, providing it with a range of internal accommodation which extends at first and attic floors over part of the adjoining shop, it is significantly larger than typical back-to-back properties such as those I saw in the street nearby. Indeed, it exceeds by some margin the minimum 100m² floor area requirement for properties in C(ii) and is of an appropriate size and layout to accommodate two separate units, with one of them having two bedrooms. As such, taking these factors together, I consider this particular property to have no significant or material conflict with the requirements of C(i) and (ii).
8. The Council are concerned that the occupiers of Flat 1 would be disturbed by comings and goings of occupiers of Flat 2 due to the original staircase and the shower room to Flat 2 being adjacent the first floor bedroom of Flat 1. I note however that the staircase turns away at right angles as it rises towards first floor level such that from that point it is not then adjacent the bedroom wall of Flat 1. Additionally, the relationship of a shower room adjacent a bedroom wall is not an uncommon feature in flat layouts. As such, I see no reason why the layouts of the flats would result in any unacceptable noise or disturbance to their occupiers.
9. The Council considers that the conversion to two flats results in the loss of a house suitable for family occupation in an area identified in the SHMA¹ as being short in supply of three-bedroom family houses, and refer to 14 of the 28 properties in Lowther Street as being rented properties, and also that some may be in use as small HMOs. However, the precise nature of how properties in Lowther Street are actually occupied, and whether there is any significant cumulative concentration of house conversions, HMOs or residential institutions in the street or wider area is unclear.
10. I accept that such concentrations in an area may generally result in noise and disturbance to occupiers of neighbouring dwellings. However, in my view that is more likely to occur from conversions to HMOs with multiple occupiers and their related comings and goings, rather than, as in this case, from conversion

¹ Leeds City Strategic Housing Market Assessment (2017)

to use as two flats. Moreover, there is no direct evidence before me of any complaints made to the Council of noise and disturbance from neighbouring occupiers resulting from the use of this property as two flats.

11. Following on from the above, even on the basis of the Council's case that there would be a loss of a family sized dwelling and a concentration of conversions in the street, C(iii) only restricts conversions to flats where a conversion by itself, or cumulatively with a concentration of conversions, would result in a detrimental impact on the amenity of occupiers of neighbouring dwellings. For the reasons I have set out above I find that not to be the case here and consequently no conflict with the requirements of C(iii).
12. The property has no outside amenity space and is limited to on-street parking, and an outside communal refuse storage area nearby may not in practice be used. Also, although not ideal, bicycle storage would only be possible inside the property. However, all these same circumstances would apply if the property was a single dwellinghouse. As such these factors make the property far more attractive and suitable to use as two flats than use as a single family dwelling, and hence there is no greater material conflict with requirements C(iv) to (vii) than would be the case as a single dwellinghouse.

Conclusion

13. For all these reasons I find there to be no material conflict overall with the requirements of CS Policies H6(C) and P10, or UDP Policy GP5. The appeal therefore succeeds on ground (a).

Thomas Shields

INSPECTOR