



Appeal Decision

Site visit made on 27 June 2023

by R Hitchcock BSc(Hons) DipCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 July 2023

Appeal Ref: APP/F4410/C/22/3299578

Flats 10 and 11 The Fox Inn, 19 Church Street, Conisbrough, Doncaster DN12 3HP

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mrs Rose Cope against an enforcement notice issued by Doncaster Metropolitan Borough Council.
 - The enforcement notice, numbered 22/00017/ENFNOT, was issued on 7 April 2022.
 - The breach of planning control as alleged in the notice is without planning permission the unauthorised material change of use of the Land from a public house within sui generis use to two self-contained flats for residential use within Use Class C3.
 - The requirements of the notice are:
 - (i) cease the use of the Land as self-contained flats;
 - (ii) restore the Land to its previous condition;
 - (iii) following compliance with (i) and (ii) above, permanently remove the resultant materials from the Land.
 - The periods for compliance with the requirements are:
 - For step (i) – three months
 - For steps (ii) and (iii) – six months.
 - The appeal is proceeding on the grounds set out in section 174(2)(a) of the Town and Country Planning Act 1990 as amended. Since the 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.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

2. In the absence of a representative of the Council at my site visit, I proceeded to view the internal area of the relevant building unattended. However, only Flat 10 was accessible. I have therefore determined the appeal on the basis of observations in respect of that unit in conjunction with the written submissions of all parties.

Ground (a) and the deemed application for planning permission

Main Issues

3. The main issues are the effect of the development on:
 - the living conditions of occupiers of the development with particular regard to the size of the units and associated outdoor amenity space

- the living conditions of neighbouring residents with regard to bin storage and off-street parking associated with the development.

Reasons

4. Policy 45 of the Doncaster Local Plan 2015-2035 [2021] (the LP) requires all new housing in the borough to meet the Nationally Described Space Standard. This sets out the minimum gross internal area of new dwellings as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling heights.
5. The policy states that exemptions to the requirement will only be considered where the applicant can robustly demonstrate, with appropriate evidence, that adhering to the standards is not feasible. Policy 44 of the LP seeks to create high quality residential housing through good design. This requires that there is adequate provision of internal living space, storage space, amenity and garden space.
6. The plan submitted by the appellant shows a representation of what I observed on site, however, there is little confirmation of unit sizes, compliance with the relevant minimum Space Standards, or justification otherwise. Although I have little doubt that some aspects of the standards would be met within Flat 10, I cannot be sure that the development is in full compliance and therefore sufficient to deliver the requirement in Policies 44 and 45 of the LP.
7. A partly enclosed yard area directly adjacent to the units is laid out with outside seating and planters. It would provide opportunities for sitting out and domestic bin storage associated with the units. However, as land beyond the scope of the notice, there is little other evidence provided to demonstrate its status either in terms of its ownership, its association with Flats 10 and 11, or the provisions for its use by occupiers and/or others.
8. It is therefore unclear whether or not it is within the appellant's control. Accordingly, even if the area was deemed suitable to provide an appropriate standard of outside amenity space and/or bin storage, there is no legitimate mechanism within the scope of this appeal to secure it as such.
9. The appellant's evidence indicates that any parking associated with the residential use of the building would either be on-street or utilise parking areas adjacent to the site. A parking area to the rear of the building would be largely impractical for residents of the units on account of poor direct accessibility.
10. However, as most houses in the locality benefit from their own off-street parking facilities, and an off-street hardstanding with dropped kerbing is present on Wellgate close by, I find it unlikely that on-street parking would lead to a material increase in parking pressure in the locality. Accordingly, there is little basis to conclude that the living conditions of nearby residents would be unduly affected in that regard.
11. Notwithstanding my finding in relation to the matter of vehicle parking, for the reasons given above, I find the balance of evidence fails to demonstrate that the development would provide a high standard of living accommodation for residents of the flats. Furthermore, there is little to demonstrate where associated refuse bins might be stored to ensure they do not adversely impact neighbouring residents.

12. The development thereby conflicts with Policies 44 and 45 of the LP as they seek to create high quality residential environments through good design including minimum internal space standards, outside amenity space and the appropriate storage of refuse.
13. The dismissal of this appeal would result in any existing tenants of the building losing their home. This would interfere with their rights under the European Convention of Human Rights, as incorporated into domestic law by the Human Rights Act 1998 (HRA).
14. However, having regard to the legitimate and well-established planning policy aims to protect the living conditions of occupants and harm to the living conditions of nearby residents, in this case, I consider that greater weight attaches to the public interest. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the tenant/s.

Conclusion

15. For the reasons set out above, I find that the breach of planning control alleged in the notice is contrary to the development plan. There are no material considerations that indicate a decision should be made other than in accordance with the development plan. Accordingly, I conclude that the appeal and the deemed application for planning permission should be dismissed.

R Hitchcock

INSPECTOR