



Appeal Decision

Site visit made on 7 November 2023

by F Harrison BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27th November 2023

Appeal Ref: APP/N4720/W/23/3327224

270 Dewsbury Road, Hunslet, Leeds LS11 6JQ

- 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 Habib against the decision of Leeds City Council.
 - The application Ref 23/00675/FU, dated 1 February 2023, was refused by notice dated 1 June 2023.
 - The development proposed is use of building as basement flat and ground floor offices and retention of upper two floors as single dwelling.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Leeds City Council against Mr Habib. This application is the subject of a separate decision.

Preliminary Matters

3. There is a previous permission¹ at the appeal site for use of ground floor and basement level as office and use of ground floor, first and second floor as a dwellinghouse. This is what is shown on the submitted plans as existing. The proposed plans show the basement as a residential flat and the ground floor as offices, which I observed to be the case on my site visit, therefore I am considering this appeal retrospectively.
4. There are no plans to demonstrate what is proposed at the first and second floor level which are described in the description of development on the application form to be retained as a single dwelling. The Council indicated on the decision notice that in this regard the proposal fails to satisfy Article 7 of the Town and Country Planning (Development Management Procedure) Order 2015, which sets out the general requirements for applications for planning permission. Nevertheless, the Council did go on to determine the application and found harm as set out in their second reason for refusal.
5. Even if the Council had considered that the application had been submitted incorrectly, the proposal is before me, which I have assessed against the information submitted by the parties and my site visit.

¹ Ref 20/070877/FU

Main Issues

6. The main issues are:

- the effect of the development on the living conditions of the occupiers of the basement flat, with regard to internal space, daylight/sunlight, outlook and outdoor space; and
- whether acceptable living conditions for the occupiers of the upper flat would be provided.

Reasons

Basement flat

7. Policy H9 of the Core Strategy (as amended by the Core Strategy selective Review 2019) (CS) requires that new dwellings comply with all of the criteria set out in the policy that comprise the minimum space standards. While it is not disputed that the basement flat meets the gross internal floor area standard and the floor area standard for a single bedroom, the Council has concerns regarding the minimum ceiling height required of 2.3 metres for at least 75% of the gross internal area. The submitted plans are not sufficiently clear with regard to the ceiling to floor height achieved in the basement to demonstrate whether the standard has been met. Nevertheless, and irrespective of the precise ceiling to floor height, I observed the basement to have a cramped and claustrophobic feel. This is indicative of the confined nature of the internal space, resulting in a poor standard of accommodation, despite its high-quality finish.
8. The bedroom area is currently served by an obscure glazed door, and I observed this area to be a dark, uninviting space with no outlook. Even if the narrow window shown on the proposed plan were to be inserted this would not result in a satisfactory increase in light levels and would still result in the bedroom area having a poor outlook, owing to the size of the window. While there is a relatively large window serving the living room area which provides sufficient light levels for this room, despite having views out towards the sky this room has a poor outlook, looking as it does onto the tarmac area in front of the appeal property which is shown on the plans to be for car parking, and as such, would result in a narrow outlook onto parked cars at close range. Owing to its small size, the insertion of a second, narrow window in the living room would not significantly increase the outlook for this room.
9. While open plan, the kitchen is at the other side of the flat to the living room window, and as such, I found the kitchen to be a dark space, relying on artificial light. The proposed window in the living room would not increase the light levels reaching the kitchen owing to its small size and location. There are small windows on the access door at the side of the flat, however these are obscure glazed and let only a limited amount of natural light into the kitchen area. Even though the flat appeared to be well served by artificial lights, this does not overcome the harm caused to the living conditions of the occupiers resulting from the detrimental levels of daylight/sunlight and poor outlook.
10. There is a small yard to the side of the appeal property, with direct access from the basement kitchen, and an area of tarmac to the front of the property is said to provide outdoor space for the occupiers of the basement flat, albeit shared with the occupiers of the upper flat and is shown on the plans to also

provide car parking and cycle storage. Neither of the outdoor spaces are private, with clear views from the main road into the area of tarmac to the front of the property, and the yard to the side appears to also provide a secondary access to the office space at ground floor level. As such, the outdoor space for the occupiers of the basement flat does not represent a high-quality environment.

11. Overall, the development has an unacceptable effect on the living conditions of the occupiers of the basement flat, with regard to internal space, daylight/sunlight, outlook and outdoor space, in conflict with Policies H9 and P10 of the CS and Policies GP5 and BD5 of the Leeds Unitary Development Plan (Review 2006) (UDP). Amongst other things, these policies require alterations to existing development to provide good design that is appropriate to its function, avoiding the loss of amenity and giving consideration to usable space, privacy and the satisfactory penetration of daylight and sunlight.
12. The Council also allege a conflict with Policy H6 of the CS. However, this policy is primarily concerned with the loss of family housing. Since, as I understand it, the appeal property has already been converted into a flat and office space it would not result in the loss of a family house, and for this reason Policy H6 has not been determinative in my decision.

Upper flat

13. The description of development indicates that the first and second floors are to be retained in residential use and there is no dispute in relation to the use of these floors remaining as such. The appellant contends that the main difference between the approval and the appeal scheme is the use of the basement. However, the appeal scheme proposes a different mix of development across the building as a whole, and the previously granted residential unit would be at first and second floor levels only. As such, there would be a reduction in accommodation space and the appeal scheme would therefore result in a change of layout and the accommodation provided.
14. While the appellant suggests that the proposed upper flat complies with floorspace requirements, there are no plans before me to indicate how the proposed upper flat would be laid out. I am not therefore able to assess whether the upper flat would meet the required standards set out in the development plan. Consequently, I cannot be certain that acceptable living conditions for the occupiers of the upper flat would be provided. The proposal is therefore in conflict with Policy P10 of the CS and Policy GP5 of the UDP. Amongst other things, these policies require development to provide good design that is appropriate to its function and avoid the loss of amenity.

Other Matters

15. The development at basement level has secured accommodation for the occupier. In particular, it has been explained that the current occupier is content with the facilities. In refusing to allow the proposal, the occupier would have to find alternative accommodation, so there could be interference with the occupier's human rights as set out in Article 8 of the Human Rights Act 1998.
16. However, it does not follow that not granting planning permission for the scheme would be a violation of their human rights. It has not been shown that the basement flat is the only option available to the occupier to secure suitable

accommodation. Therefore, in this instance, dismissing the appeal would not be disproportionate when balanced against the need to uphold the operation of the planning system, which includes the requirement for development to accord with the adopted development plan; that being made and applied in the wider public interest.

17. While the appellant has expressed frustrations with the Council's handling of the case, this does not alter or outweigh my findings which are based on the planning merits of this case.

Conclusion

18. My above findings bring the proposal into conflict with the development plan, read as a whole. There are no material considerations that have been shown to have sufficient weight to warrant a decision otherwise than in accordance with it. Therefore, I conclude that the appeal is dismissed.

F Harrison

INSPECTOR