



Appeal Decision

Site visit made on 11 October 2023

by David English BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28th November 2023

Appeal Ref: APP/X4725/W/23/3316102

14 Avondale Street, Wakefield WF2 8DP

- 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 Ryan Beaumont of Beaumont & Partners 007 Ltd against the decision of Wakefield Council.
- The application Ref. 22/01365/FUL, dated 21 June 2022, was refused by notice dated 22 December 2022.
- The development proposed is described as 'proposed change of use from ground floor hot food takeaway (Use class Sui Generis) and first floor residential apartment (Use class C3) to 10-bedroom HMO (Use class Sui Generis), demolition of existing garage/store and erection of two storey extensions proposed to the rear and side and external alterations at 14 Avondale Street, Wakefield, WF2 8DP.'

Decision

1. The appeal is dismissed.

Application for costs

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

Preliminary Matters

3. The description of development given in the appeal form and in the Council's decision notice differs slightly from that used in the planning application form in that it was modified to reflect amendments made to the overall scale of the proposal prior to the Council's decision. The Council's decision was based on those amended proposals, about which further local notification took place and, while I have seen no formal agreement between the parties about the changes to the description, given that both main parties have made reference to it in their submissions, and that it better reflects relevant details of the scheme before me in respect of the number of bedrooms in the proposal, I have used that modified description in the banner heading above and in my separate decision on the costs application. The Council's notification letter to interested parties and others about the appeal includes the modified description. Accordingly, I am satisfied that this change will not have prejudiced the interests of any party involved in the appeal or those who may have wished to make representations on it.

Main Issues

4. The main issues in this appeal are:
 - the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings in respect of noise and disturbance;

- whether satisfactory living conditions would be created for future residents of the proposal in respect of internal communal space and external amenity space;
- the effect of the proposal on highway safety with particular regard to the adequacy of car parking provision; and
- the effect of the proposal on the living conditions of the occupiers of 16 Avondale Street in respect of outlook and privacy.

Reasons

Living conditions of neighbours

5. While the appeal property previously operated at the ground floor as a fish and chip shop, overall, Avondale Street is an established primarily residential street comprising mostly traditional two-storey terraced and semi-detached houses. It is a relatively short street which is truncated by railway lines under which a pedestrian route passes through to nearby industrial and commercial premises. Tew Street is a shorter street comprising a mixture of modern and traditional semi-detached and detached houses and bungalows. At the time of my site visit in mid-afternoon, the area seemed to be generally quiet, and both streets onto which the site fronts exhibited the character and appearance of forming part of a settled housing area. While many representations suggest there is a proliferation of Houses in Multiple Occupation (HMOs) in the vicinity, the documentary evidence I have seen did not assist in directing me to any specific properties nearby that may be in use as HMOs, and I could not determine from my observations whether there were other HMOs nearby.
6. The Council's reasons for refusal refer to the effects of the proposal on the amenity of neighbouring residential occupiers associated with comings and goings and general disturbance resulting from the nature of the use. However, having regard to the scale of the development proposed, I would not expect that any significant effects arising from the levels of activity generated by the proposed use would extend much beyond its immediate setting. Accordingly, whilst the Council has not specified which neighbouring residential occupiers' living conditions would be harmed, my focus has been on the effects likely to arise to the occupiers of dwellings adjoining the appeal site, that is: 16 Avondale Street (No 16) and 1 Tew Street (No 1).
7. The proposal would involve the demolition of a single storey garage on the appeal site which fronts onto Avondale Street and currently abuts the boundary with No 16. A private path accessed via the front gate to No 16 runs along that common boundary and provides pedestrian access to the rear garden of that house. The proposal includes a two-storey extension that would be built generally in the position of the existing garage. This extension would be set in from the common boundary with No 16 thereby facilitating the creation of a gated access path from Avondale Street to the main entrances of the proposed HMO immediately alongside that common boundary. Another gated pedestrian access to the proposed main entrances would be created from the proposed parking spaces to which access would be taken from Tew Street.
8. Whilst there would be shared facilities in the proposed accommodation, the functioning of HMOs is such that occupiers of the proposal are likely to lead lives which are independent from one another. They are therefore likely to

have separate routines with attendant levels of comings and goings, along with those of their visitors.

9. From the details provided on the plans, there would be no direct dedicated pedestrian route from Tew Street to the main entrances of the building. When both proposed parking spaces are in use the parked cars would present a significant physical constraint to occupiers seeking to gain access from this side of the site. Nevertheless, there would be some additional pedestrian and vehicular activity close to the front garden of No 1. However, activity in this general location is unlikely to appear out of the ordinary in the context of the character of Tew Street where most of the dwellings have a drive or footpath leading from their front doors through short front gardens to the highway. In my judgement, it is unlikely that significant harmful additional noise and disturbance would arise to the occupiers of No 1 from activity at the appeal site entrance onto Tew Street since this is generally adjacent to the front garden of No 1, an area readily visible from the highway and naturally less private, and an environment where activity associated with pedestrian and vehicular movement would be common in this street.
10. In contrast to this, the introduction of a pedestrian access from Avondale Street in a location where none currently exists would result in potentially intensive pedestrian activity associated with the comings and goings at the proposal immediately alongside and close to the rear garden of No 16. This activity would be experienced by the occupiers of No 16 as a substantial and harmful change in respect of noise and disturbance alongside the common boundary with the appeal site.
11. Notwithstanding the previous use of the appeal property as a hot food takeaway, the noise and disturbance associated with the use of the proposed pedestrian access in this location, the timing of which would be unpredictable, would be markedly different to the effects of the levels of activities, including deliveries, associated with what appears to have been a relatively small-scale hot food takeaway. Furthermore, the entrance to that facility was at the opposite side of the site to the common boundary with No 16 and facing away from that dwelling. Consequently, the proposal would introduce a significant change that would be unacceptably harmful to the living conditions of the occupiers of No 16. I have considered whether boundary screening secured by planning condition could adequately mitigate this harm. However, having regard to the limited space between the properties I am not satisfied that this would be feasible, effective or sufficient to address the harm that would arise from the use of this access route.
12. On this main issue, I find that the proposal would have an unacceptably harmful effect on the living conditions of the occupiers of neighbouring dwellings in respect of noise and disturbance. The proposal therefore conflicts with Policy D 9 of A new vision for developing Wakefield District Local Development Framework Development Policies (April 2009) (the LDF) which requires that development has no significant detrimental impact on the amenity of neighbouring residents. The proposal also fails to meet the expectations of Chapters 12 and 15 of the National Planning Policy Framework (the Framework) in respect of ensuring developments create places with a high standard of amenity for existing users and that they avoid noise giving rise to significant adverse impacts on quality of life.

13. The Council's reason for refusal in respect of this matter refers to conflict with Policy D 20 of the LDF. However, I have not been directed to any wording in that policy which would assist in assessing this main issue, and, whilst I have had regard to Policy D 20, I find it is not relevant to this main issue.

Living conditions for future occupiers

14. The proposal comprises what would in effect be two separate floors of accommodation, both having their own discrete entrance doors and each containing five private bedrooms, and a communal kitchen, living and dining space (the communal spaces). The Officer Report (the OR) refers to the Councils document '*House of Multiple Occupation (Wakefield Council's Adopted Standards 2018)*' and, while I have not been provided with a copy of that document, the OR confirms the advice from the Council's Strategic Housing Team who, the OR states, '*raised no objection to the proposal, stating that the proposal complies with the Council's Standards for houses in multiple occupation*'.
15. The Council's concerns, as expressed in the reasons for refusal, relate to the adequacy of the size of the communal spaces and the adequacy of the external amenity space. The plans show the communal spaces as having areas of around 26 sq.m. on the ground floor, and over 27 sq.m. on the first floor. Having regard to the layout shown on the plans and the areas of space provided for each of the five-bed HMO units which significantly exceed the Council's minimum space standards for such shared spaces as described in the OR, I am satisfied that the proposed communal spaces would be adequate to meet the needs of future occupiers.
16. Several small external amenity spaces are shown on the plans. Their distribution appears somewhat driven by the need to accommodate other requirements including car parking, cycle parking and bin storage areas. This disjointed arrangement would result in the creation of a handful of largely unusable outdoor spaces leaving future occupiers of the HMO with very limited opportunities to use outdoor space for leisure and relaxation and the more practical purpose of drying clothes. For these reasons, future occupants would not be provided with the quantity or quality of private outdoor amenity space which they could reasonably expect to enjoy.
17. While there are areas of publicly accessible open spaces nearby, including the Millennium Gardens and the substantial Clarence Park referred to by the appellant, these do not serve the same purpose as private or communal outdoor space at a person's home. The amount of external amenity space and its disjointed distribution would therefore result in harmfully poor living conditions being created for future occupiers of the proposal.
18. On this main issue, while the communal spaces would be adequate, the proposal would not create satisfactory living conditions for future residents of the proposal in respect of external amenity space. The proposal would therefore fail to accord with Policy D 9 of the LDF which requires that development has no significant detrimental impact on the amenity of prospective users. The proposal also fails to meet the expectations of Chapter 12 of the Framework in respect of ensuring developments create places with a high standard of amenity for future users.

Highway safety

19. Provision would be made within the appeal site for two car parking spaces. I saw that a resident parking scheme was in place along Avondale Street and Tew Street which limits parking to those having a permit during short periods in the morning and afternoon. During my site visit, while recognising that this provides only a snapshot in time, I saw there were several on-street parking spaces available close to the appeal site and in slightly more distant locations.
20. Given the likely availability of on-street parking spaces in the vicinity of the proposal, the presence of double yellow lines around the junction of Avondale Street and Tew Street which should prevent dangerous parking in that location, and noting the lack of objection to the proposal from the Council's Highways advisors, I have seen little substantive evidence to support claims that any additional on-street parking associated with future occupiers of the proposed development would present particular dangers to pedestrians and other highway users.
21. The OR reports that the Council's Highways advisors consider the site to be in a generally accessible location in respect of public transport options, and future occupiers are not likely to be families that require the use of a private vehicle. From what I saw of the area during my site visit, noting additionally that the site is only a short walk from nearby shops and facilities, I have no reason to disagree with those conclusions. In addition, adequate on-site cycle parking arrangements could be secured by planning condition were the appeal to be allowed and this would facilitate the promotion of sustainable travel options for future occupiers.
22. While recognising the concerns raised in representations regarding this matter, from the evidence available to me and from my appreciation of the context of the proposal, I am not persuaded by the contention that further off-street parking would be required in the interests of highway safety.
23. On this main issue I therefore find that the proposal would not result in unacceptable harm to highway safety with particular regard to the adequacy of car parking provision. Accordingly, the proposal meets the expectations of Policy D 14 of the LDF which requires a level of parking provision appropriate to the proposal and its location. The proposal would also not conflict with the provisions of Chapter 9 of the Framework which concerns promoting sustainable transport.

Living conditions at No 16 – outlook and privacy

24. The proposal includes two-storey extensions to the side and rear of the existing building. The side extension would not project beyond the rear wall of No 16 which has a two-storey blank gable wall flanking the appeal site. The rear extension would be set in from the common boundary with No 16, it would be substantially lower than the main two-storey part of the appeal property and, from dimensions shown on the plans, would be positioned at least 6 metres from the single storey rear extension to No 16. The extension to No 16 contains windows facing the appeal site, and views towards the appeal site would be altered to some degree from those windows, as would views from the rear garden of that house. However, given the distance that would remain between the proposal and the rear garden and extension at No 16, the effects

on the outlook of the occupiers of No 16 would be limited to the extent that significant harm would not arise.

25. The proposal includes windows to the communal spaces at ground and first floor that would face directly towards the rear garden of No 16. These are secondary sources of light to those rooms and the imposition of conditions to ensure these were permanently obscure glazed could be secured without resulting in any significant adverse effect on the living conditions of future occupiers of the proposal. Accordingly, those proposed windows would not result in any significant loss of privacy to the occupiers of No 16.
26. Windows in the first-floor rear elevations of the proposal, including those serving the communal spaces and bedroom 6 would provide generally oblique views of the rear garden of No 16. However, this arrangement is not uncommon in such built-up areas and is a feature along the rear elevations of houses on Avondale Street currently. The layout of the proposal and the positioning of windows to habitable rooms would therefore not create an unusual or harmful impact on the privacy afforded to the occupiers of No 16 when using their rear garden.
27. On this main issue I therefore find that the proposal would not result in an unacceptably harmful effect on the living conditions of the occupiers of 16 Avondale Street in respect of outlook and privacy. The proposal would therefore not conflict with the intentions of Policy D 9 of the LDF which requires that development has no significant detrimental impact on the amenity of neighbouring residents. The proposal also accords with the expectations of Chapter 12 of the Framework in respect of ensuring developments create places with a high standard of amenity for existing users.

Other Matters

28. I appreciate that there have been many representations made objecting to the proposal for a variety of reasons in addition to those given in the Council's reasons for refusal, including matters regarding the effects of having a concentration of HMOs in the local area and the fear of crime associated with the proposed use. However, while I recognise that these are genuine and strongly held concerns raised by the wider community, my focus has been on the reasons for refusal presented by the Council, and it is not necessary for me to examine in further detail those additional issues which were not presented as matters of concern to the Council.

Planning Balance and Conclusion

29. The proposal would provide a form of housing in a reasonably accessible location that would add to the mix of accommodation available locally, it would boost the supply of housing and would constitute an efficient use of land as advocated in the Framework. Having regard to the scale of the proposal, I attribute moderate weight to these benefits.
30. While I have not found harm in respect of the effect of the proposal on highway safety or on the living conditions of the occupiers of No 16 in respect of outlook and privacy, I have found harm in respect of the living conditions of the occupiers of No 16 as a result of noise and disturbance and on the living conditions of future occupiers of the proposal in respect of the provision of

external amenity space. The benefits of the proposal, alone or in combination, would not outweigh the significant harm I have identified.

31. I conclude that the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that indicate the decision should be made otherwise than in accordance with the development plan.

32. For the reasons given above, the appeal is dismissed.

David English

INSPECTOR