



Appeal Decision

Site visit made on 21 November 2023

by A Hunter LLB (Hons) PG Dip MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8 December 2023

Appeal Ref: APP/N4720/W/23/3327506

112 Cemetery Road, Beeston, Leeds LS11 8BE

- 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 City Estate Solutions Ltd against the decision of Leeds City Council.
 - The application Ref 23/01201/FU, dated 23 February 2023, was refused by notice dated 3 May 2023.
 - The development proposed is a change of use from five self-contained flats to form four serviced apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have removed reference to the proposal being a 'revised scheme' in the above description as this is not an act of development.
3. The appellant has said that the proposed use of the appeal property as 4 no. serviced apartments has commenced and is operational. The appeal has been determined on this basis.

Main Issue

4. The main issue is the effect of the proposed development upon the living conditions of nearby occupiers with particular regard to noise and disturbance.

Reasons

5. The appeal site contains a mid-terraced four storey property, including its lower ground floor level, which faces onto Cemetery Road. The immediate area is predominately residential, comprising houses, flats and a House in Multiple Occupancy (HMO). In front of the appeal site is a bus stop, there are also double yellow lines across both sides of this part of Cemetery Road, which prevent parking along it. I saw on my site inspection that traffic regularly queued in front of the appeal property from a nearby controlled junction between Beeston Road and Cemetery Road.
6. The rear of the appeal property is accessed from Back Middleton View to the side of the terrace of properties. In addition, Back Temple View runs along the majority of the rear sides of other properties in the same terrace. Apart from crossovers serving off-street parking areas, there is unrestricted parking on these two roads, which is the nearest on-street parking to the appeal site.

7. The attached terraced properties to either side of the appeal property are likely to be affected the most by the new serviced apartments, they are No. 110, a family house, and No. 114, a 6-bedroom HMO.
8. Whilst the 4 no. new apartments would be a reduction in the number of units at the appeal property, compared to the 5 no. flats that benefit from a lawful development certificate, there would be no reduction in the amount of accommodation at the appeal property. Furthermore, the short-term and transient use of the serviced apartments would likely give rise to a different nature of use to that of occupiers who permanently live there, which can create increased noise and disturbance. Although the appellant has stated that the new apartments are usually serviced weekly during the daytime by cleaners, there would nevertheless be movements associated with the occupation of them. Representations from residents have referred to occupiers of some of the apartments being in groups, on short trips and there being parties, which is said to cause noise and disturbance to nearby occupiers, including during the night-time hours, on both weeknights and weekends.
9. Notwithstanding that the appeal site is located on a busy road, it is attached on two sides to residential properties, without appropriate mitigation the increased noise and disturbance from the short-term use of the 4 no. new serviced apartments would be harmful to adjoining occupiers. Based on the information before me, this harm is regularly occurring.
10. To mitigate the effects upon nearby occupiers, the appellant has stated that the occupiers of the new apartments must sign an agreement regarding their behaviour, with a fine liable for any such breaches, although the appellant has stated no fines have been issued. However, a copy of the agreement has not been provided with the appeal, so it is unclear what behaviour is deemed to be unacceptable and how enforceable it would be. Furthermore, there is no mention of any on-site management presence to enforce the agreement.
11. Other than the limited information mentioned above, no exact details have been provided of any measures that the appellant has undertaken, or would undertake to mitigate noise and disturbance, such as sound proofing amongst other options. Given that no further mitigation or precise management arrangements have been suggested or said to be possible, it would not be reasonable for me to consider whether conditions could be used in this respect.
12. Parking and associated vehicular movements to the serviced apartments would likely be from Back Middleton View and Back Temple View, such movements, particularly during night-time hours could cause noise and disturbance for neighbouring occupiers. However, I acknowledge that the area can also be busy with traffic, and the use of the appeal property for 5 no. flats could also give rise to on-street parking movements during the night-time, including those by shift workers. In addition, I also acknowledge that in this well-connected area, occupiers may also travel by public transport. On the evidence before me, I am not persuaded the additional car movements associated with the new serviced apartments would be significantly different to those of 5 no. flats (the lawful use of the appeal property), or cause harm to the occupiers of neighbouring properties. Although, this would not justify the identified harm in regard to the noise and disturbance from the use of the appeal property.
13. For the reasons outlined above, I conclude that the use of the appeal property as 4 no. serviced apartments would be harmful to the living conditions of

nearby occupiers and conflict with Policy P10 of the Leeds Core Strategy (Selective Review 2019) (CS) and Saved Policy GP5 of the Leeds Unitary Development Plan (Review 2006), adopted July 2006 (UDP) that amongst other things require development to seek to avoid loss of amenity, protect the general amenity of the area, and expect new development to respect and contribute positively to the quality of life and wellbeing of the area. The proposal would also conflict with paragraph 130 of the National Planning Policy Framework (the Framework) that requires a high standard of amenity for existing and future users.

14. The Council referred to conflict with Policy BD6 of the UDP, which requires alterations and extensions to respect the original building. As only internal changes are proposed, I did not find this policy to be determinative.

Other Matters

15. The appellant has stated that the appeal site is situated in a sustainable location that is well-connected to local services, facilities, and employment opportunities; it would re-use an existing building; and that the proposal would bring tourism into the area and support the visitor economy. These points are noted, however, they do not individually or collectively outweigh the conflict with the development plan and the Framework.
16. It is noted that the appellant has sought to address earlier an earlier reason for refusal through this application; that the 4 no. serviced holiday apartments are said to have been operational since November 2021, that most of its occupiers are said to be contractors on weekdays from outside of the area; and that the Council's Environmental Health Officer has not objected. Nevertheless, there would be no way of controlling individual occupiers of the new apartments through planning controls, and these points do not alter my findings above.
17. In support of the appeal, the proposal is said to deliver high quality accommodation; with adequate daylighting to rooms within the building; and have outdoor amenity space to the rear of the building. These points are noted; however, they are likely to be requirements of any well-designed development and are neutral matters that neither weigh in favour or against the proposal.
18. It is acknowledged that paragraph 60 of the Framework seeks to boost the supply of housing, but I am not aware the Council has a shortfall of housing. Moreover, the proposal is to replace 5 no. existing residential units with 4 no. serviced units for short term lets. Consequently, I did not find that argument to be directly related to the proposal or to outweigh the identified conflict.

Conclusion

19. For the reasons outlined above, the proposed development conflicts with the development plan taken as a whole and given the identified harm, would not comprise sustainable development. There are no other considerations, including the Framework, which indicate a decision other than in accordance with the development plan. I therefore dismiss the appeal.

A Hunter

INSPECTOR