



Appeal Decision

Site visit made on 21 November 2023

by N Kempton BA(Hons) PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st May 2024

Appeal Ref: APP/N4720/W/23/3329612

25 Hyde Park Villas, Ebberston Terrace, Hyde Park, Leeds LS6 1BH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is described as being made by Patel, of VSHF- Leeds, against the decision of Leeds City Council.
 - The application Ref is 23/02293/FU.
 - The development proposed is replacement of stores and alterations to part of existing flat to form new ground floor flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant submitted a revised drawing with the appeal. The amendment would lower the sill of a bedroom which would overlook the rear areas and window openings of the dwellings on Back Kensington Terrace. The risk of overlooking in the amended proposal would be greater than in the application determined by the Council.
3. I appreciate that the spaces and openings that may be overlooked are separated from the bedroom window by a ginnel. However, there are few enclosures to these rear areas and the separation distance from the window is short. In these circumstances, and in the absence of any re-consultation on the window amendment, to accept the amended drawing would deprive those who were entitled to be consulted on the application of the opportunity to make any representations that, given the nature and extent of the change proposed, they may have wanted to make on the application, as amended.
4. In the interests of natural justice therefore, the appeal has been determined on the same basis as the application refused by the Council.

Main Issue

5. There are two principal areas of work. The alteration of the existing flat 1, 25 Hyde Park Villas; and the formation of a new flat. I have used these terms for clarity, notwithstanding the status of either. The main issues are:
 - the effect of the development on the living conditions of the occupiers of flat 1, with particular regard to floorspace, light, and outlook; and,
 - whether the proposed development would provide acceptable living conditions for the future occupiers of the new flat, with particular regard to light, outlook, garden area and noise or disturbance.

Reasons

6. The area is characterised by residential development, predominantly terraced housing, constructed of red brick with slate roofs. High density housing in this inner-city area of Leeds is softened by mature trees and grassed amenity areas, which positively contribute to the character and appearance of this part of the Headingley Hill, Hyde Park and Woodhouse Conservation Area. The appeal property, which is an end of terrace property in use as separate flats, has been extended to the rear with a single storey extension that forms part of the ground floor flat.
7. The appeal site comprises a flat-roofed, double garage, which is in a state of disrepair and has been the target of vandalism in the form of graffiti. The garage has roller shutter doors which open onto Back Kensington Terrace. Its condition detracts from the streetscape.

Existing flat

8. The alterations to the existing flat would reduce its floor area. The Council is concerned that the existing flat would not have the floor area required in policy H9 of the Leeds Core Strategy (2019)(CS), which sets minimum space standards with which all new dwellings must comply. Notwithstanding that the floor area is disputed by the main parties, the space standards in policy H9 apply to new dwellings, whereas this flat already exists. Policy H9's application to the existing flat is therefore limited.
9. Notwithstanding the relevance of the policy, and even against its measure, from what I saw on site, and noting that the flat would retain approximately 47.8m² of floor area, as well as its dual aspect configuration with double window openings to the main space, I cannot find that, in these circumstances, the floor area of the flat would lead to harmful living conditions for its occupiers. The new building would be a little larger than the building it would replace; its new walls only marginally closer to the existing flat. Its size and proximity to the openings would not reduce the light entering the flat and the outlook from it to any significant degree.
10. The proposed development would provide acceptable living conditions for the occupiers of the existing flat, in accordance with CS policy P10, which seeks high quality design that protects and enhances useable space, privacy, sunlight and daylight.

New flat

11. The bedroom of the new flat would be lit by a window with a high cill. While this may provide sufficient daylight and natural ventilation to the room, the outlook from it would be extremely limited. With such poor outlook from its only bedroom, future occupiers would have an unacceptably poor standard of accommodation.
12. The external amenity space would be enclosed and overlooked by the neighbouring terrace. Such an arrangement is typical of this densely populated, inner-city part of Leeds. The close-knit terraces and flats afford intervisibility at close quarters. Based on my observations and the evidence before me, I am satisfied that the garden associated with the property would provide sufficient external amenity space for future occupiers, which is commensurate with the established layout and character of the area.

13. While Building Regulations would control the performance of the construction of the new flat as concerns its resistance to the passage of sound, it is acknowledged that there may be some residual risk of disturbance from airborne noise by those accessing the upper floor flats via the external stair.
14. However, the proposal is not dissimilar from the existing arrangement. The number of people using the external stair would not be so great, and the windows of the new flat would not be so close to it, nor the space they light and ventilate so sensitive, that the future occupiers' enjoyment of their flat would be materially harmed. Moreover, in this densely populated, built-up area, I saw that there appears a commonly accepted degree of latitude in anticipated privacy standards- it is part of the character of the area. In terms of noise or disturbance, the proposed development would not be harmful to the living conditions of future occupiers of the new flat.
15. Because of the high window cill and its effect on outlook, the proposed development would fail to provide acceptable living conditions for the occupiers of the new flat. As such, the proposal conflicts with CS policy P10 as above, and policy GP5 of the Saved Unitary Development Plan Review (UDRP) (2006) which seeks to ensure that development proposals resolve detailed planning considerations, including amenity. The proposal would also conflict with the National Planning Policy Framework (the Framework), which states at paragraph 130 that decisions should ensure that developments create a high standard of amenity for existing and future users.

Other Matters

16. The Council has concluded that the proposal would preserve the appearance of the conservation area, I have no reason to disagree.

Conclusion

17. The proposed development would contribute an additional dwelling to the area's housing supply- an important consideration in the context of the Government's objective to boost significantly the supply of homes. It would also bring some uplift to the local economy from construction services and the patronage of local business and services of future occupiers. Removing the garage would, to a small degree, enhance the appearance of the CA, to the conservation of which the Framework indicates that great weight should be given.
18. All of these benefits, however, do not outweigh the harm to the future occupiers of the new flat from unacceptable living conditions. I conclude that the proposal would conflict with the development plan taken as a whole and there are no material considerations, including the Framework, which would outweigh that conflict. Therefore, the appeal is dismissed.

N Kempton

INSPECTOR