



Appeal Decision

Site visit made on 12 March 2024

by N Kempton BA(Hons) PGDip MA IHBC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 May 2024

Appeal Ref: APP/N4720/W/23/3334119

2 Seaforth Mount, Harehills, Leeds, LS9 6AQ

- 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 made by Mr Erjo Skita against the decision of Leeds City Council.
 - The application Ref is 23/04664/FU.
 - The development proposed is the conversion of the existing basement in a house of multiple occupation (HMO) into self-contained flat.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed development would provide adequate living conditions for future occupiers of the flat, with particular reference to outlook, daylight and external amenity space.

Reasons

Outlook and daylight

3. The self-contained flat would be accessed by crossing the communal front yard, via steps down from street level. The flat would rely on two windows for outlook and daylight infiltration. The window serving the main living space is at high level in relation to the internal floor level thereby restricting outlook. Directly outside and at proximity to the second window, which principally serves the bedroom, is a retaining wall. This retaining wall and the lower ground level serves to restrict the amount of daylight and diminishes outlook from within the flat. The proposed location for the cycle and refuse stores, in proximity to the bedroom window, would further diminish levels of outlook, thereby harming living conditions.
4. Furthermore, the external amenity space is enclosed by close-boarded fencing atop a wall, which obstructs the outlook and further restricts light infiltration to these windows. The associated level differences in conjunction with the proximity of the retaining wall, and the boundary wall beyond, gives the flat an enclosed and somewhat subterranean character and substantially restricts any outlook from the two windows serving habitable rooms, harming living conditions for future occupiers.
5. The proposal is to lower the cill height of the bedroom window and elongate the second window, thereby increasing the size of these apertures. However, for the reasons stated, and notwithstanding the depth of the internal living space,

this would not satisfactorily mitigate the harm identified. I therefore consider that the proposal would cause significant harm to the living conditions of future occupiers by reasons of insufficient levels of outlook and daylight in the flat.

External amenity space

6. Whilst the modest front yard would provide future occupiers with external amenity space, this is communal rather than private space. The amenity value of this enclosed space would be diminished by reason of affording access through the yard to the upper floors of the property. The yard could accommodate cycle and refuse storage, though such storage would reduce the extent of amenity space, resulting in moderate harm to the living conditions of future occupiers.
7. The proposed development would subject future occupiers to inadequate levels of outlook and daylight and to an enclosed and restricted external amenity space with diminished amenity value, the effects of which, in isolation or in combination, would be harmful to living conditions.
8. For these reasons, the substandard living conditions would make the proposal unacceptable and contrary to the following policies of the Leeds Core Strategy (2019): policy H6, which seeks to ensure that development proposals for conversion of existing dwellings into flats provide satisfactory internal living accommodation in terms of daylight and outlook, amongst other things; policy P10 which seeks high quality design that protects and enhances a number of things including useable space, privacy and satisfactory penetration of sunlight and daylight. This policy also requires the provision of cycle, waste and recycling storage designed in a positive manner. The proposed development is also contrary to Saved Leeds Unitary Development Plan (2006) policy GP5, which states that development proposals should resolve detailed planning considerations and seek to avoid problems such as loss of amenity.

Other Matters

9. I note the appellant's comment that the appeal site was previously used as a bedroom as part of the HMO. The Council states that planning permission was sought for the change of use of the dwelling to a 6 bed HMO in July 2020, but the application was subsequently refused by the Council in December 2020- a primary reason for refusal being the harm to the amenity of the occupant of the basement. Notwithstanding this, the appeal proposal is for a self-contained flat and the licensing considerations for a HMO are not the same as considerations in determining an application for planning permission. In this instance, the living conditions are not acceptable.

Conclusion

10. The proposed development would contribute to the area's housing supply in a location with good access to public transport. However, even if there was a shortfall in housing supply, a single dwelling would only make a limited contribution and therefore be of only limited benefit. This would not be sufficient to outweigh the identified harms.
11. I conclude that the development would provide inadequate living conditions for future occupants, with particular regard to outlook, daylight and external amenity space. For these reasons, the proposal would conflict with the

development plan as a whole and there are no material considerations that would outweigh that conflict. Therefore, the appeal is dismissed.

N Kempton

INSPECTOR