



Appeal Decision

Site visit made on 26 June 2024

by M J Francis BA (Hons) MA MSc MCIfA

an Inspector appointed by the Secretary of State

Decision date: 25 July 2024

Appeal Ref: APP/N4720/W/24/3340912

1 Dawlish Terrace, Osmondthorpe, Leeds LS9 9HB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Peter Bradley against the decision of Leeds City Council.
 - The application Ref 24/00837/COND sought approval of details pursuant to condition Nos 1 and 2 of a planning permission Ref 23/00942/FU granted on 20 November 2023.
 - The development proposed is retrospective change of use from dwelling house to house in multiple occupation.
 - The details for which approval is sought are details of a glazed basement door, cycle storage, refuse and recycling bin storage.
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Decision

1. The appeal is dismissed, and approval of details required by a condition is refused: namely: details submitted in pursuance of condition 2 attached to planning permission Ref 23/00924/FU, dated 20 November 2023.

Background and Main Issue

2. Planning permission was granted on appeal¹ for the change of use from dwelling house (C3) to house in multiple occupation (HMO)(C4).
3. This appeal relates to the submission and agreement of conditions pursuant to the conditions imposed. It is not for the appeal to reconsider the planning permission, the wording of the condition or whether the condition is necessary.
4. Whilst the application² sought to discharge conditions 1 and 2, the Council determined that the details submitted for condition 1 were satisfactory. Therefore, the condition was discharged, and a split decision was issued.
5. Consequently, I will deal with matters relating to condition 2 only. This states:

'Unless within three months of the date of this decision schemes for a glazed basement door, cycle storage, refuse and recycling bin storage, are submitted in writing to the local planning authority for approval, and unless the approved schemes are implemented within three months of the local planning authority's approval, the use of the site as a House in Multiple Occupation (HMO) shall cease until such time as schemes approved by the local planning authority are implemented.'

¹ APP/N4720/W/23/3324538

² Ref 24/00837/COND

If any of the schemes in accordance with this condition are not approved within six months of the date of this decision, the use of the site shall cease until such time as the schemes approved by the local planning authority are implemented. Upon implementation of the approved schemes specified in this condition, those schemes shall thereafter be retained. In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.'

6. The Council has confirmed that they do not object to the proposed bin storage, therefore, it is matters relating to the basement door and cycle storage which I will deal with.
7. Whilst details of a proposed door style have been submitted, the evidence suggests that this was not available to the Council at the time the application was determined. I have considered the additional details, and, applying the principles established by 'Holborn³', I consider that they are a fundamental change to the proposal. However, as the design of the door has been made available to the Council during the appeal and they have had the opportunity to comment, I consider that no one has been prejudiced. Consequently, I have determined the appeal based on this submission.
8. Therefore, the main issue is whether the details submitted address the requirements of the condition in terms of the living conditions of the occupiers of the HMO with regard to light and outlook, and the provision of appropriate cycle storage for the promotion of sustainable transport.

Reasons

9. The appeal site is an end terraced back-to-back property within a residential area. It has a small front garden where the bin store and cycle storage are proposed. This also provides access via steep steps to an external basement door which is the entrance to the property and leads into the kitchen and communal living space for the occupiers of the HMO.
10. The external door is constructed of white uPVC. The appeal decision⁴ refers to natural light being provided by an existing window, with light being reduced in the parts of the room furthest from the window. The decision states that if the door was replaced with a clear glazed door, it would increase the amount of natural light and create a reasonable outlook for occupiers using the communal room.
11. The submitted details show two glazed panels on the top half of the door. This is not a clear glazed door, and it would only marginally increase the natural light, and would not create a reasonable outlook for the occupiers of the HMO. Whilst the appellant has not received complaints about natural light in the kitchen space, the Inspector determined that a glazed door was required to provide suitable living conditions in the shared communal space. Therefore, the door design as submitted would harm the living conditions of the occupiers of the HMO.
12. The proposed cycle storage is for a 'Sheffield stand' which would permit two bicycles to be attached to it. Whilst floor plans have not been provided, I see

³ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

⁴ APP/N4720/W/23/3324538

from the allowed appeal decision⁵ that there are three bedrooms in the property. Although the submitted evidence states that there are no existing bicycle users living in the property, the provision of cycle storage is not dependent on existing residents but is required for both current and future occupiers who may wish to own and use a cycle. Furthermore, the provision of cycle storage was a condition of the planning permission.

13. Whilst the appellants consider that a covered and lockable bicycle storage is not practical, the appeal site is a corner property with the only external space being at the front of the house. Therefore, it is highly visible and requires secure storage.
14. I therefore conclude that the details submitted would harm the living conditions of the occupiers of the HMO with regards to light and outlook, and from not providing appropriate cycle storage for the promotion of sustainable transport.
15. It would not comply with Policy P10 of Leeds Local Plan Core Strategy, 2019⁶ which requires cycle storage to be integral to the development, as well as the requirement within the Leeds City Council Transport SPD, 2023, that cycle provision in HMOs should equal one per bedroom. It would also not accord with Saved Policy GP5 of the Leeds Unitary Development Plan which seeks to provide acceptable levels of amenity.

Conclusion

16. The proposed development conflicts with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict.
17. For the reasons given above, I conclude that the appeal is dismissed.

M J Francis

INSPECTOR

⁵ APP/N4720/W/23/3324538

⁶ Adopted 2014 (as amended by the Core Strategy Selective review 2019).