

Appeal Decision

Site visit made on 13 August 2024

by N Teasdale BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2nd September 2024

Appeal Ref: APP/N4720/W/24/3342425

32-34 Westgate, Otley, Leeds, Yorkshire LS21 3AS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant full planning permission.
 - The appeal is made by Mr Seyed Morteza Hosseini against the decision of Leeds City Council.
 - The application Ref is 23/07484/FU.
 - The development proposed is change of use of a bakery/confectionary with living accommodation above, into two retail units (class e) with four apartments above.
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Decision

1. The appeal is allowed, and planning permission is granted for change of use of a bakery/confectionary with living accommodation above, into two retail units (class e) with four apartments above at 32-34 Westgate, Otley, Leeds, Yorkshire LS21 3AS in accordance with the terms of the application, Ref 23/07484/FU, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Revision A 1:1250; Block Plan Revision A 1:200; Rear, Side, Front Elevations 1:100; Proposed Floor Plans 1:100.
 - 3) Development shall not be occupied until the approved cycle/motorcycle parking and facilities have been provided. The approved facilities shall thereafter be retained for the lifetime of the development.
 - 4) The approved details for the provision of bin stores (including siting, materials and means of enclosure) and (where applicable) storage of wastes and access for their collection shall be implemented in full before the use commences and shall be retained thereafter as such for the lifetime of the development.
 - 5) Prior to first occupation, the outdoor amenity space shown on the approved plan shall be laid out and access and use of the space for occupants of the flats shall be retained thereafter.

Main Issue

2. The main issue of the appeal is whether the proposed development would provide an acceptable standard of residential accommodation for future occupiers.

Reasons

3. The appeal site relates to a commercial unit currently used as a bakery and confectioners and a 4 bedroomed property above set within a double fronted three storey end of terrace property located within Otley Town Centre.
4. The site benefits from planning consent for the change of use of a bakery/confectionery with dwelling above and alterations to form two retail units with three dwellings above. It is understood from the officers' report that this scheme exceeds the minimum space standards but did not provide any outdoor amenity space.
5. The proposed development would introduce four flats above opposed to the previous scheme of three and would provide a small area of outdoor amenity space to the rear of the building which can be accessed via the gate to the side of the property.
6. It is undisputed that each of the four flats meet or just exceed the minimum space standard whilst also providing for a level of outdoor amenity space. I am aware of the Council's concerns regarding the quality and useability of the space to the rear of the building. However, at my site visit, I observed that whilst this location provided for bin storage which would continue to be the case, there was sufficient room for sitting out etc with access via the gate to the side of the property. I have also had regard to the appellants' images showing how the outside space could be laid out and look which would improve visual amenity. An appropriately worded planning condition could also ensure the laying out, access and use of this space for occupants of the flats and retained for such purposes which I have applied.
7. The quantity of space may not meet the requirements of the Neighbourhoods for Living Supplementary Planning Guidance, 2003 (SPG). However, there is an extant planning permission for three dwellings above with no outdoor amenity space and thus the additional provision despite its convenience/connectivity arrangements is arguably a betterment and could be used by future occupiers if they wished. Additionally, the SPG is a general guide to provide adequate outdoor private spaces and the shortfall in terms of quantity is not so significant to result in a direct conflict in this regard. Its overall arrangements in terms of convenience/connectivity are also not so problematic to result in a direct conflict with the SPG particularly given that three dwellings could come forward with no outdoor amenity space.
8. For the above reasons, I conclude that the proposed development would provide an acceptable standard of residential accommodation for future occupiers and would comply with Policy GP5 of the Leeds Unitary Development Plan Review, 2006 and Policy P10 of the Leeds Core Strategy, 2019 which together, amongst other matters, seek to protect the visual, residential and general amenity of the area through high quality design that protects and enhances surrounding routes, useable space, privacy, air

quality and satisfactory penetration of sunlight and daylight whilst also avoiding problems of loss of amenity. For the same reasons, the proposed development would accord with the general aspirations of the SPG.

Other Matters

9. The site is located within Otley Conservation Area (CA) and is defined as a positive building within the CA Appraisal. I have a duty under Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of the CA. I have had regard to paragraph 205 of the National Planning Policy Framework which explains that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.
10. There is a lack of changes proposed to the exterior of the building, and the Council has concluded that no impact is considered to result to the character of the property or wider CA. Based on the plans provided and my own observations onsite, I have no reason to disagree with this assessment.
11. I am aware of concerns in relation to parking matters. However, given the sites location in the town centre, it is considered that the addition of a further one-bedroom flat above the three previously approved would not result in parking issues in this highly sustainable location.

Conditions

12. I have attached a condition relating to the standard time for commencement of development as well as a plans condition to ensure that the approved development is carried out in complete accordance with the approved plans. I have also attached conditions relating to cycle parking and provision of bin stores which I find necessary in the interests of highway safety, promoting sustainable travel opportunities, amenity and to ensure adequate measures for the storage and collection of waste are put in place. A condition relating to the outdoor amenity space has also been applied in the interests of residential amenity. I have reviewed the condition suggested by Environmental Studies relating to noise and ventilation. However, I do not find this to be reasonable in the particular circumstances of this appeal given the existing residential use at the site as well as the extant planning permission for residential development. Such a condition has not therefore been applied.

Conclusion

13. For the reasons given above and having had regard to the development plan as a whole, the appeal is allowed, and planning permission is given subject to the attached conditions.

N Teasdale

INSPECTOR