
Appeal Decision

Site visit made on 14 November 2024

by D M Young JP BSc (Hons) MA MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 2 January 2025

Appeal Ref: APP/A4710/W/24/3350574

The Old Bakery, Rear Of 88 Southgate, Elland, Halifax HX5 0EP

- 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 Osman Hashmi (Elland Group Ltd) against the decision of Calderdale Metropolitan Borough Council.
 - The application Ref is 24/00397/FUL.
 - The development proposed is the conversion of the Old Bakery building to five apartments including addition of rear dormer.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of Old Bakery Building to five apartments including addition of rear dormer at The Old Bakery, Elland HX5 0EP in accordance with the terms of the application, Ref 24/00397/FUL, 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 drawing nos. P101 Rev 2 & P102 Rev 2.
 - 3) No development shall take place until details of all external materials have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
 - 4) Prior to occupation of apartment 4, details of the obscure glazing to the bedroom window shall be submitted to and agreed in writing with the local planning authority. The glazing shall be installed in accordance with the approved details and thereafter retained.

Preliminary Matters

2. At paragraph 3.1 of the Council's Appeal Statement, it states "*The refusal of this application was based upon the updated drawings submitted to the Local Planning Authority following the Planning Agent's discussion with the Council's Conservation Officer*". The Appeal Statement goes on "*the full drawing numbers, including revision numbers, for these amended plans are listed accurately on the Decision Notice*". The Decision Notice refers to plan ref: P102 Rev A.
3. The Appellant has however submitted a further revision with the appeal (ref: P101 rev 2 and P102 Rev 2). These plans include two minor alterations to the external wall to flat 1 and the party wall between flats 1 and 2. Given the

Council has had the opportunity to comment on the latest plans in its Appeal Statement, I have decided to accept them.

Main Issues

4. The main issues are the effect of the proposed development on, firstly, the character and appearance of the Elland Conservation Area (ECA) and the appeal building, and secondly, the living conditions of future and neighbouring occupiers.

Reasons

Character and appearance

5. The appeal relates to part of a former bakery located in Elland town centre. Although not recorded on a local list, the Council considers the appeal property to be a non-designated heritage asset owing to its architectural interest which is derived from the modest gothic revival style of the building.
6. As noted in the Officer's Report, there is no objection to the principle of converting the building to a residential use and indeed there is a clear public benefit in bring the building back into use. While some concerns are raised with regard to replacement windows and doors, this is a matter of detail, something that could be addressed by the imposition of planning conditions.
7. Despite this the Council argues that the proposed dormer to the rear elevation because of its low-quality materials, massing and scale would be out of keeping with the character of the building itself and the ECA. Despite the rear elevation's lack of visual exposure, the Council argues the dormer would result in less than substantial harm to the significance of the ECA and the bakery itself as a non-designated heritage asset.
8. Upon examination of the original and amended plans, it is clear there was a meaningful attempt to address the comments of the Council's Conservation Officer. The changes include the replacement of the flat roof with a cat-slide roof, a reduction in the width of the dormer and lead dormer walls/cheeks replacing the former grey cement board cladding. The Appellant claims that the changes were verbally agreed with the Conservation Officer. However, from the Council's Appeal Statement it appears the Case Officer took the view the amendments did not go far enough and decided not to reconsult the Conservation Officer on that basis.
9. Despite the obvious improvements, the latest plans show the former would still extend across the majority of the rear roof slope. The harm would be compounded by the asymmetrical window placements which do not reflect the pattern of fenestration on the lower floors. However, I also acknowledge that the dormer would be located to the rear of the building where public views are strictly limited. Because of this, I consider the degree of harm to the appeal building and the ECA would be strictly limited and towards the bottom end of the less than substantial scale.
10. Nonetheless the harm must be weighed against the public benefits of bringing the building back into use and providing five new flats in a sustainable town centre location. I undertake this balance in the context of the guidance in paragraph 212 of the National Planning Policy Framework (NPPF), which makes it clear 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.

11. The paragraph 215 balancing exercise is very finely balanced but, in this instance, I find the benefits listed above are sufficient to outweigh the very limited heritage harm. The proposal thereby passes the NPPF paragraph 215 test and thus accords with Policies HE1 and BT1 of the Calderdale Local Plan (CLP) which seek high quality design and the conservation of heritage assets in a manner appropriate to their significance.

Living conditions

12. CLP Policy BT1 advises that new homes should be well laid out internally and should provide suitable levels of space appropriate to the type of home. Although the policy does not explicitly refer to The Technical housing standards – nationally described space standards (NDSS), I consider this is a material consideration in forming a judgement regarding the level of internal living space.
13. According to the Council, flats 1 and 2 would have an internal floor area of 36m² which is below the recommended 37m² in the NDSS. The submitted floorplans for flats 1 and 2 indicate there would be a reasonable level of internal space, with an open-plan living area and a separate bedroom/bathroom together with storage and circulation space. Notwithstanding that a 1m² shortfall is unlikely to result in unacceptable living conditions, the revised plans submitted with the appeal indicate that flats 1 and 2 would meet the 37m² threshold. In the absence of anything to the contrary from the Council, I am satisfied flats 1 and 2 would provide future occupiers with acceptable living conditions.
14. In terms of privacy, there would be the potential for overlooking from the bedrooms of flats 2 and 4 into Nos 2 and 4 Old Mill Mews respectively. However, overlooking from flat 2 would be towards an obscure glazed door at ground floor level. Therefore, despite there being limited separation I do not consider there would be an unacceptable loss of privacy. Given the height difference, I do not consider there would be any significant overlooking from flat 2 to No. 4.
15. In terms of overlooking at first floor level between flat 4 and No. 4, I concur with the suggestion in the Appellant's Appeal Statement that this could be overcome through the imposition of a planning condition requiring the window to be obscure glazed. Accordingly, I am satisfied that the proposed development would not harm the living conditions of existing and future occupiers. As a result, there would be no conflict with CLP Policies BT1, HS1 or NPPF paragraph 135.

Other Matters

16. The Council's fourth reason for refusal refers to the appeal property being located within a Critical Drainage Area. The Appellant's Flood Risk Assessment (FRA) states that no external works are proposed and so there would not be an increase in surface water runoff nor are any changes proposed in terms of sewer connections.
17. An updated Flood Risk Assessment was submitted with the appeal which covers all sources of potential flooding. This concluded:

"With regards the drainage system it is noted the surface water discharge rates are as existing, therefore it will not 'increase flood risk elsewhere'. It is noted in the revised FRA that there is no opportunity to decrease flood risk due to the lack of land available with this development. The wording of Policy CC2 iii does note 'where possible' reduce flood risk - accepting that in some cases it is not possible - and the re-use of an existing landlocked building such as this one could be presented as one such case.

18. Based on the information contained in the revised FRA and given the Council has not pursued the matter in its Appeal Statement, I am satisfied the development would be safe for its lifetime, taking into account the vulnerability of its users, without increasing flood risk elsewhere. Accordingly, there would be no conflict with Policy CC2 or NPPF paragraph 173.

Conclusion

19. For the reasons given above the appeal should be allowed.

D M Young

INSPECTOR