

7th November 2024

Statement of Case

1, 3, 5 & 7, Oates Street, Dewsbury,
WF13 1BB

Appeal against the refusal of planning application
Ref. 2024/62/90107/E

For

“Erection of Extensions and Re-Building of Derelict Buildings to
Form Flats (Within a Conservation Area)”

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1 Introduction

- 1.1 Planning & Design Practice is a multidisciplinary practice consisting of chartered town planners, architects and heritage specialists. The practice operates across England and Wales and has an exemplary track record of submitting successful planning applications and in creating sustainable development.
- 1.2 This statement has been prepared on behalf of FC Property Ltd (the Appellant) in connection with an appeal against the decision by Kirklees Council to refuse an application for the extension and re-building of buildings to form 3 flats at Oates Street, Dewsbury.
- 1.3 The Council's reason for refusal is set out as follows:

"The proposed development fails to ensure a high standard of amenity to future occupants. The poor service of light and outlook to the proposed rooms, along with overlooking harm from adjacent windows, does not ensure a suitable level of amenity for future occupants. This would be contrary to Policy LP24 of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD."

2 Site Description and Proposed Development

- 2.1 The site is located on Oates Street, which is within the centre of Dewsbury. It is surrounded by a number of current and former industrial use buildings, some of which have been converted into residential use.
- 2.2 At present, the site consists of unoccupied, vacant and derelict buildings, including those that have been historically demolished (due to being beyond repair) and a courtyard with brick walling and a gated access point from Oates Street.



Figure 1: Site location

- 2.3 The site is located within the Dewsbury Town Centre Conservation Area, which is also classified as a 'heritage at risk' area. The site backs onto the Former Fox's auctioneers, which is a Grade II Listed Building. There are no other planning designations on site.
- 2.4 The proposal is for the extension and partial re-building to allow for the change of use from commercial to residential. 3 flats have been proposed, each of which are 2-bed and 1-bath.
- 2.5 The buildings are/will be 3-stories tall, with a flat proposed on each floor, and a shared access stairwell to each flat. The shared courtyard area will be improved from what is there currently, including a lawn area

and bin storage. There will be a new gated access into this yard for future residents, and a separate gated access for the neighbouring building to the north, which will be separated by low-level timber fencing.

- 2.6 The existing building to the rear of the site is proposed to be re-built and extended. In its current form, the building is not suitable for occupation. The materials used for the re-build and extension of the roof and walls will match the existing materials on site, with new UPVC doors and windows proposed to replace the existing timber ones.
- 2.7 When first submitted, the proposal was for 4 flats, but plans were amended throughout the application process to reduce this to 3 flats so that nationally described space standards could be met.

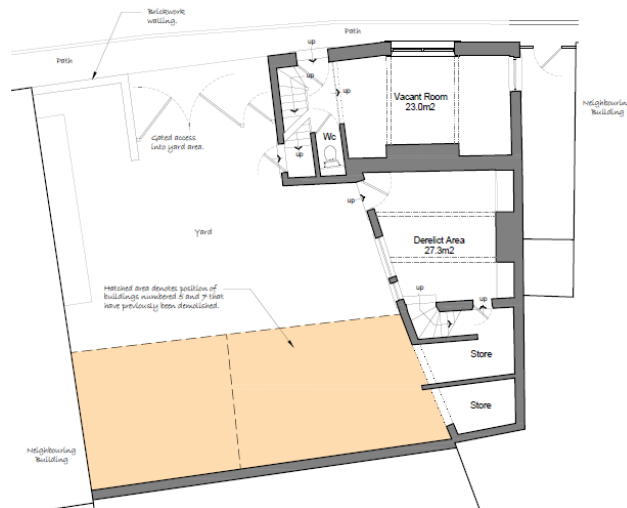


Figure 2: Existing ground floor plan

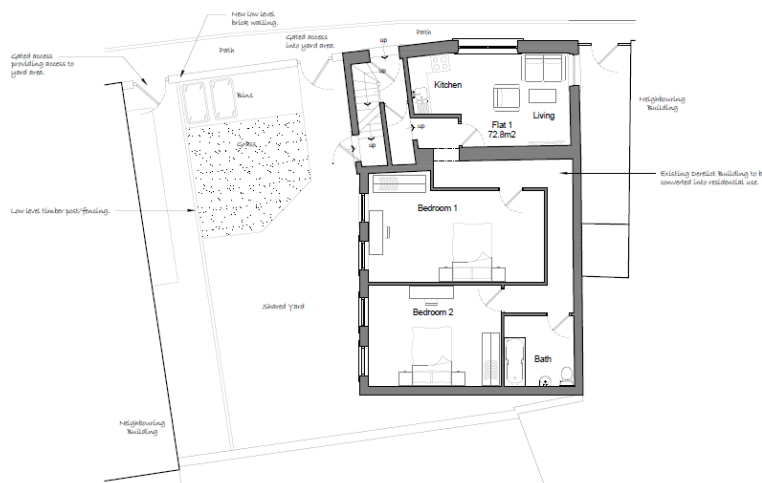


Figure 3: Proposed ground floor plan

Historic Context

- 2.8 The site is located within the Dewsbury Town Centre Conservation Area. According to the Conservation Area appraisal, Dewsbury has recorded history from Saxon times, but remained a small settlement throughout the Middle Ages. In the 18th and 19th centuries there was an industrial growth in the town from heavy woollen industry and associated manufacturing, which then left a legacy of fine Victorian and Edwardian municipal and commercial buildings and townscapes. The Conservation Area was designated in March 1981, covering 11 hectares and containing approximately 280 pre-1939 buildings, 57 of which are Listed as Architectural or Historic Interest.
- 2.9 The site is located within the Western Character Area of the Conservation Area, with grid street patterns and three- or four-storey buildings. Specifically, the site is within the sub-area of Bond Street/Croft Street. This sub-area is characterised by the principle warehouse and office buildings which were constructed in the 19th century. Although the main streets in this area have good continuity of built development on both sides of the street, Oates Street has areas of car parking and less continuity and integrity of built frontage creates a somewhat 'backland character'.
- 2.10 Although the building is not listed, it is present on historical maps from 1855. According to Companies House, the building was used as a newspaper printing premises from 2009-2013. Whilst there is no other evidence on what the building has been used for historically, it can be assumed that it has been in a commercial/industrial use for its lifetime, being located in an area which has this overriding use.
- 2.11 The building contributes positively to the Conservation Area.



Figure 4: Historic map from 1855 with site outlined in red

3 Key Policies

- 3.1 A full list of policies that are relevant to this appeal can be found in the Local Plan, however, the following policies are most pertinent.

Kirklees Local Plan (2019)

- 3.2 Policy LP1- Presumption in favour of sustainable development

Policy LP1 states that the Council will take a positive approach that reflects the presumption in favour of sustainable development when assessing proposals. This proposal makes use of an existing building, retrofitting a building which can make a positive contribution to the Conservation Area. The site is located in a sustainable area for future residents, being in the middle of the town centre, with suitable access to public transport and other services. Therefore, the proposal constitutes sustainable development.

- 3.3 Policy LP7- Efficient and effective use of land and buildings

The proposal supports Policy LP7 through the efficient use of previously developed land, as well as the reuse of vacant properties. The site is not of high environmental value, and is also in a sustainable location.

- 3.4 Policy LP15- Residential use in town centres

Policy LP15 states that proposals for residential uses within town centres will be supported if they protect the character of the centre & street scene, protect the amenity of existing and future residents, has suitable access to public transport, and has provision for refuse storage and collection. The proposed development does not propose any significant alterations to the external character of the building fronting Oates Street, and the proposed extension will not significantly impact the character of the area, assimilating with the existing buildings on site. The impact on amenity is expanded upon in the Appellant's Amplification of Case, but it is considered that there will not be a significant impact on existing for future resident's amenities. The site is in a suitable location for access to public transport, and space has been provided in the courtyard area for refuse storage & collection.

- 3.5 Policy LP24- Design

The proposed extension to the building on site assimilates with the existing buildings on site, and with the wider character of the Conservation Area, through the use of the same materials as the surrounding buildings and vernacular. The proposed extension will be subservient to the original building, being located behind the street scene, and will not impact on the amenity of neighbouring users of the site. The proposal has high levels of sustainability through the re-use of existing buildings and the promotion of using public transport in a suitable location. The proposal will also enhance what is currently a vacant and derelict piece of land, through the landscaping of the courtyard and improvement/re-building of derelict buildings. Therefore, the proposal is in accordance with Policy LP24.

3.6 Policy LP35- Historic environment

The proposed development will enhance the character of the Dewsbury Town Centre Conservation Area through the redevelopment of a derelict site that is currently an eyesore on the street scene of Oates Street. The proposals will not significantly impact nearby Listed Buildings, and will allow for a viable use to ensure the upkeep of a historic building within the Conservation Area. Therefore, the proposal is in accordance with Policy LP35. Subsequently, the protection and re-use of the building should be afforded weight.

National Planning Policy Framework (2023)

3.7 Paragraph 60- Delivering a sufficient supply of homes

Paragraph 60 of the NPPF states that a sufficient amount and variety of land should come forward where needed to provide homes for those who need it. The land and buildings on this site will help contribute to the housing need of Dewsbury, providing flats for groups of people requiring this, such as young professionals or students.

3.8 Paragraph 124- Making effective use of land

The proposal supports points c) and d) of paragraph 124 through the re-use of an under-utilised building on a derelict site. The site is currently degraded, and not in an active use, and therefore the use of the site for residential units would be a substantial improvement.

3.9 Paragraph 128- Achieving appropriate densities

Point d) of paragraph 128 states that the desirability of maintaining an area's prevailing character and setting should be taken into account. The proposal supports this through the re-use of a historical building which makes a positive contribution to the Conservation Area. Point e) encourages well-designed and beautiful places, which the proposal will contribute to once the building has been restored.

3.10 Paragraph 135- Achieving well-designed and beautiful places

The proposal supports paragraph 135 of the NPPF through the improvement of a vacant and visually derelict site, improving the quality of the area and allowing the site to function well. The proposals are sympathetic to the local Conservation Area character, and will make the site visually attractive and thus improving the street scene of Oates Street. A strong sense of place will be achieved through the clear, but not imposing, separation of public and private space. The site is able to sustain the proposed amount of accommodation without impacting on amenity for future or neighbouring residents.

3.11 Paragraph 203- Conserving and enhancing the historic environment

The proposal will make a viable use out of a heritage asset in the Conservation Area, enhancing the character of the building and subsequently making a positive contribution to the surrounding area. The proposed use is suitable for the building, and will be consistent with other uses in the Conservation Area.

Kirklees Housebuilders Design Guide SPD (2021)

3.12 Principle 6- Maintaining high standards of residential amenity

As discussed below, the proposed layout of the residential use will ensure adequate privacy and maintain high standards of residential amenity.

4 Amplification of Appellant's Case

- 4.1 The reason for refusal for the proposed re-build, extension and change of use of the commercial building to flats is as follows:

"The proposed development fails to ensure a high standard of amenity to future occupants. The poor service of light and outlook to the proposed rooms, along with overlooking harm from adjacent windows, does not ensure a suitable level of amenity for future occupants. This would be contrary to Policy LP24 of the Kirklees Local Plan, chapter 12 of the NPPF and the Housebuilders Design Guide SPD."

- 4.2 This can be split into three key amenity themes, each of which will be discussed in detail below: impact from overlooking, impact from light, and impact from outlook, and the lack of weight afforded for the re-use and protection of a historic building.

Impact on the Conservation Area

- 4.3 The site is located within the Dewsbury Town Centre Conservation Area, as shown in Figure 5.
- 4.4 As discussed previously, Oates Street has areas of car parking and less continuity and integrity of built frontage creates a somewhat 'backland character'. However, this does not detract from the individual character of the site. The building on site, although currently run down, is an example of the local industrial architecture using local ashlar stone on the façade.



Figure 5: Dewsbury Conservation Area

- 4.5 The proposal would bring this historical building back into use, and would improve the character of Oates Street and the surrounding area. Both buildings neighbouring either side of the site, as well as those opposite, have all been visually improved in recent years, meaning that the vacant character of the site is not in keeping with the street scene.



Figure 6: Facade of site

- 4.6 Notwithstanding the following discussion of amenity, it is considered that weight should be afforded to the benefits of the proposal in bringing a derelict historical site, at the centre of the Conservation Area, back into a viable use, and subsequently improving the character of the area.

Impact from Overlooking

- 4.7 There are 4 windows proposed on each floor which look into the share courtyard. These windows serve the bedrooms in each of the flats.
- 4.8 On the building to the north of the site (9 Oates Street), there is 1 ground floor window and 3 first floor windows that also look into the courtyard (Figure 7).
- 4.9 There is no planning history for this building, but the façade and windows of the building give the impression that the building has a storage/warehouse use (Figure 8). There is approximately 7m separation between the two buildings.
- 4.10 Due to the use of 9 Oates Street, it is therefore considered that there is no harm from overlooking for future residents of the proposed flats. If there is a change in use of the neighbouring building, any harm from overlooking would be assessed appropriately at this time.



Figure 8: Industrial façade of 9 Oates Street

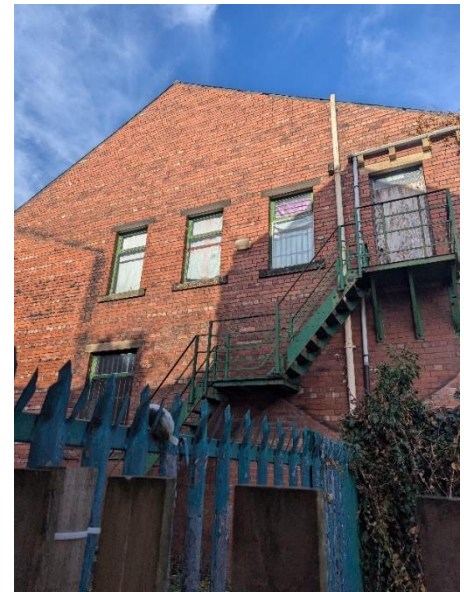


Figure 8: Southern elevation of 9 Oates Street, looking into the courtyard

- 4.11 There are other examples of commercial units which have been converted into flats within the area that have smaller separation distances than what is proposed here.

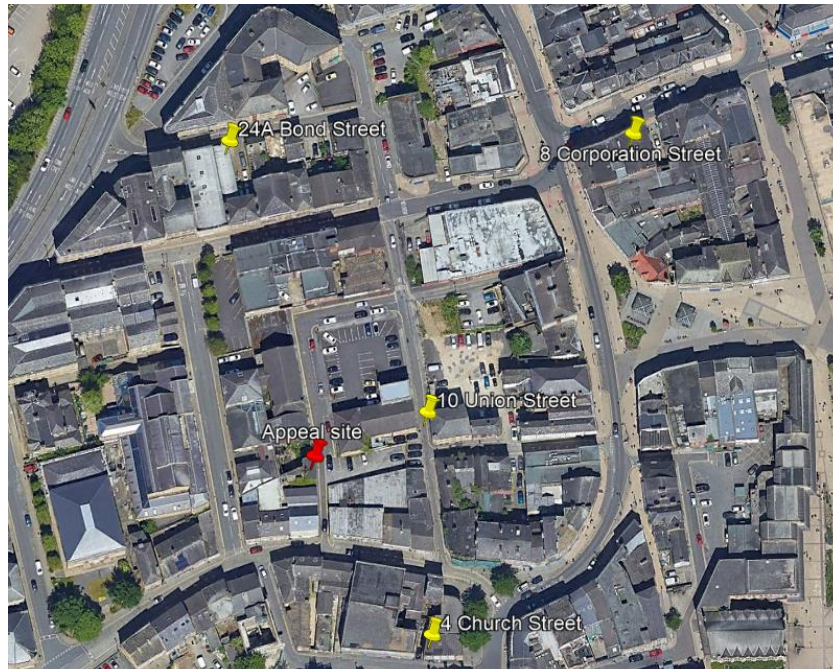


Figure 9: Appeal site and other examples

- 4.12 Prior approval has been granted for the change of use of offices to 10 dwellings at 8 Corporation Street (Appendix A), which is approximately 145m as the crow flies from the appeal site (ref. 2015/CLASSO/91934/E). In this case, the windows are the primary windows for these flats as they are all studios, and they overlook the first-floor windows which are above a betting shop (Figure 10). It is not known what these windows serve, but the separation distance between the two buildings is significantly less than that of the proposed site and neighbouring building, at approximately 4.3m between the two (Figure 9).

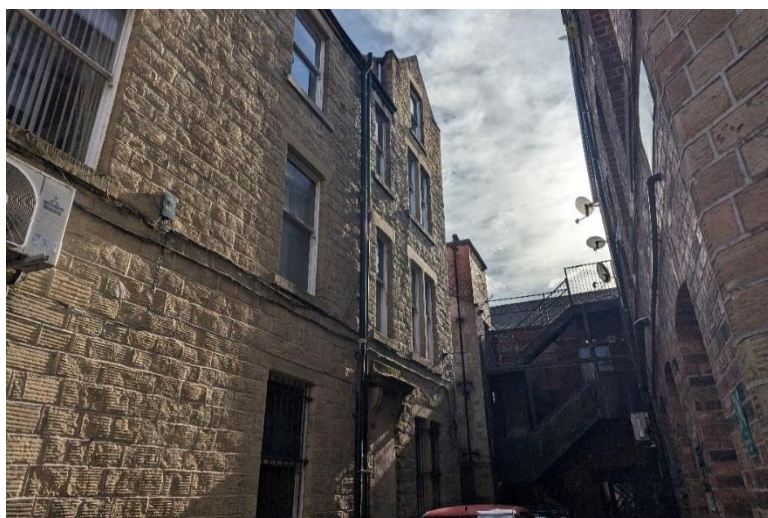


Figure 10: Overlooking windows at 8 Corporation Street

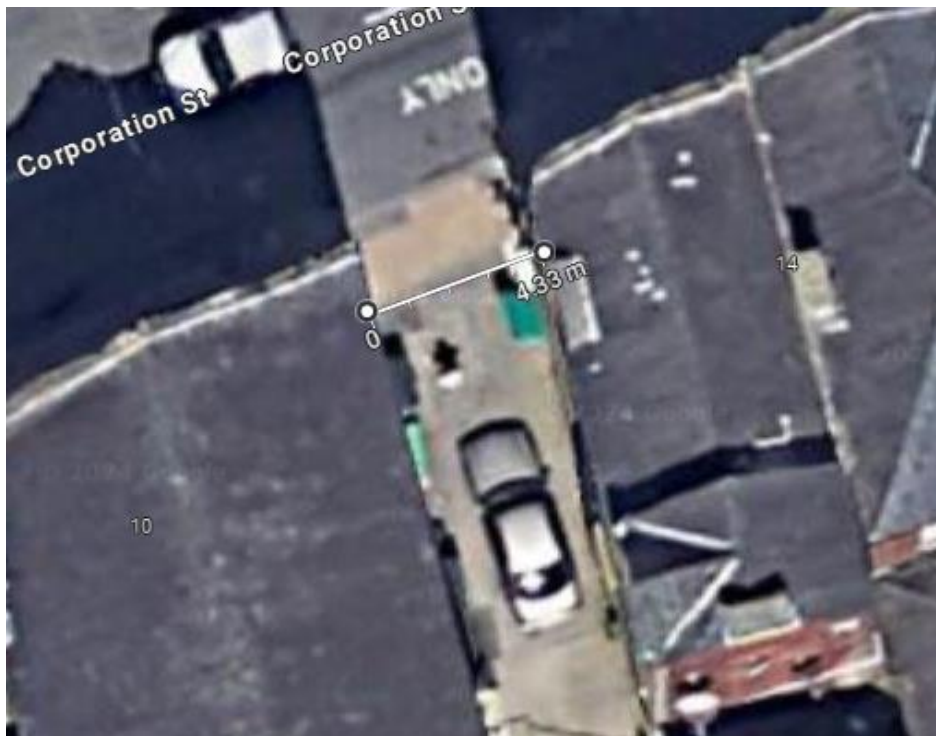


Figure 12: Separation distance on Corporation Street

- 4.13 Another example can be seen parallel to the appeal site, with the separation distance between no.10 Union Street and the Creative Craft Centre (Appendix B) being approximately 4.7m between them (Figure

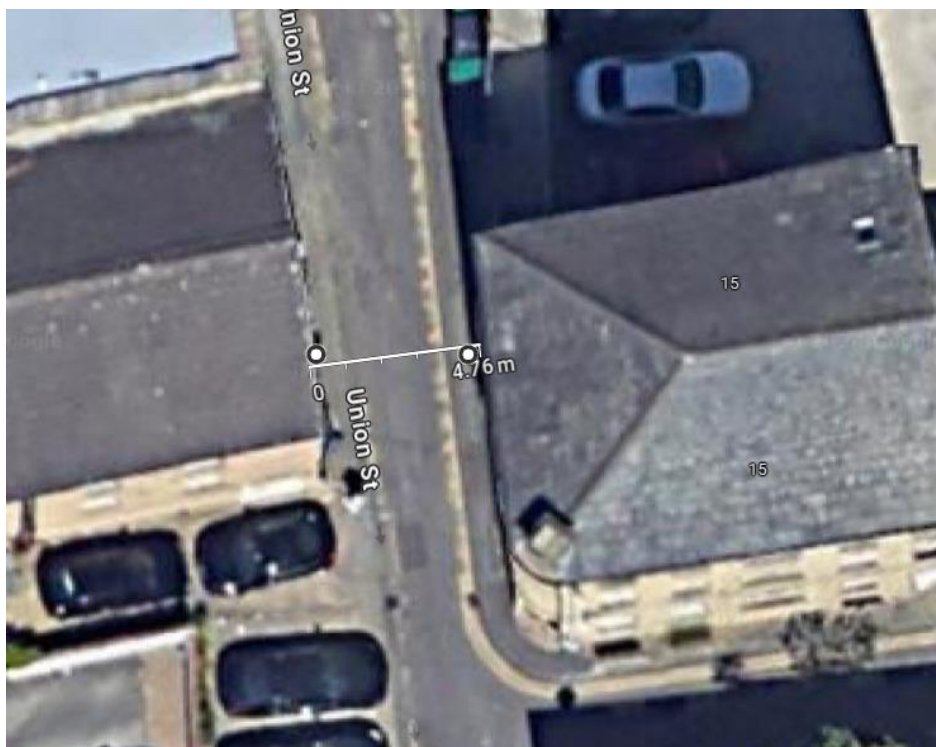


Figure 11: Separation distance on Union Street

11). Similar to this appeal, the first-floor windows overlook a commercial building, and it was not considered that there would be an unacceptable impact on future residents' amenity from this (ref. 2003/62/93645/E2).

- 4.14 It is considered that these precedents with smaller separation distances illustrate the weight previously afforded to the value of historic buildings within the Conservation within the local area and highlights the balancing exercise that should be carried out in applying local plan policies and SPD guidance.
- 4.15 The building to the north of the proposed site has a commercial use, there will be no significant issues in terms of overlooking. Therefore, it is considered that there will not be a significant impact on the amenity of future residents of the proposed site as a result of overlooking.

Impact from Light

- 4.16 The Officer's report states:

"Due to the enclosed nature of the courtyard and the orientation north, the proposed openings would not receive adequate natural light."

- 4.17 Paragraph 129 c) of the NPPF indicates that when considering housing proposals, decision makers should take a flexible approach in applying sunlight and daylight where they would otherwise inhibit making efficient use of a site, and where the development would not result in unacceptable material deterioration of sunlight and daylight conditions in surrounding development.
- 4.18 Kirklees Council have no specific guidelines for how much daylight needs to be accessed in dwellings, so the term 'adequate' is subjective. Whilst it is acknowledged that there are openings on the northern elevation of the proposed extension which are less likely to receive as much daylight as those on the eastern elevation, it is not considered that this is less than adequate. When visiting the site at midday during the autumn, it was seen that although the proposed openings would be shaded, they would not be excessively in the dark (Figure 12).



Figure 13: Northern elevation of site

- 4.19 The openings on the northern elevation of the proposed building serve bedrooms. Although a bedroom is classed as a habitable room, it is unlikely that a resident in a two-bed flat will be spending all their time in this one room. The living room in each flat is served by a window on the eastern elevation, which will receive suitable amounts of daylight, and is likely to be the room in which residents will spend a large amount of time in.
- 4.20 The proposed extension will not cause any unacceptable material deterioration of sunlight and daylight conditions in surrounding development.
- 4.21 Therefore, the balance of the amount of sunlight received in the bedrooms of the dwelling should be weighed against the efficient use of a brownfield site and historic building, as well as contributing to the vitality of the Conservation Area. As the openings on the northern elevation serve bedrooms, it would not be detrimental to the amenity of future residents for these rooms to not receive as much daylight as the living room and kitchen, where they are likely to spend a majority of their time.

Impact from Outlook

- 4.22 As proposed, the windows serving the bedrooms will look onto the courtyard, and the windows serving the living rooms will overlook the private car park opposite.
- 4.23 As existing, the courtyard is an untidy piece of land, providing access to the site and the neighbouring building. However, the proposal intends to improve this piece of land, through the landscaping of the courtyard to make it a useable space for future residents.



Figure 14: Proposed block plan

- 4.24 This landscaping will greatly enhance the outlook for future residents, and will be an improvement on other existing residential outlooks in the area. The redevelopment of the site will also improve the outlook of neighbouring users in the Conservation Area, and will improve the street scene for those walking down Oates Street.
- 4.25 Approval was granted for the change of use of the first and second floors of 4 Church Street to two flats in 2021 (ref. 2021/62/90132/E) (Appendix C). The bedrooms of these proposed flats both look out onto an alleyway used for parking, and a blank elevation of the neighbouring building, with a separation distance of approximately 3m (Figure 14).



Figure 16: 4 Church Street outlook

- 4.26 Another approval was granted for 24A Bond Street for the conversion of a former night club to 8 flats (ref. 2006/62/93797/E2) (Appendix D), whereby the outlook of the ground floor flats' windows overlook onto another paved parking area (Figure 15).



Figure 15: 24A Bond Street outlook

- 4.27 The proposed scheme is a significant improvement on other residential schemes in the area that overlook a courtyard or alleyway, with the addition of some landscaping to make the courtyard useable and attractive. Therefore, it is considered that there will be no significant impact on the amenity of future residents in terms of outlook.

Other Matters

- 4.28 A condition was recommended in the Officer's report for a Phase I preliminary risk assessment in relation to land contamination, if the proposal were to be approved. This is agreeable by the appellant.
- 4.29 Another condition recommending the provision of a bird box on site by the Officer is also agreeable by the appellant.

5 Recommended Conditions

- 5.1 The following conditions are deemed appropriate if approval was granted:

1. The development hereby permitted shall be begun within three years of the date of this permission.
2. The development hereby permitted shall be carried out in complete accordance with the plans and specification schedule listed in this decision notice, except as may be specified in the conditions attached to this permission, which shall in all cases take precedence.
3. No development above foundation levels shall take place until a scheme detailing the proposed external walls and roofing materials to be used in the construction of the hereby approved dwellings has been submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter be undertaken in accordance with the details so approved. The external walls and roofing materials approved by this condition shall be retained thereafter.
4. Works shall not commence until actual or potential land contamination at the site has been investigated and a Preliminary Risk Assessment (Phase I Desk Study Report) by a suitably competent person has been submitted to and approved in writing by the Local Planning Authority.

5. A woodcrete or long lasting nest box shall be erected on the exterior of building before it is first occupied. The box shall be installed at least 3 metres above the ground and not located above windows or doors. The box shall thereafter be retained.

6 Conclusions

- 6.1 In conclusion, the proposed development at 1, 3, 5, and 7 Oates Street, Dewsbury, presents a viable opportunity to repurpose derelict buildings into residential flats within a designated conservation area.
- 6.2 The neighbouring building will not cause any harmful overlooking to the proposed residential units, as the use of this building is for a storage/warehouse use. There is also a significant amount of separation distance between the two buildings when compared with other examples within the Conservation Area.
- 6.3 With regards to light, a flexible approach can be taken according to paragraph 129 c) of the NPPF in relation to the amount of daylight achieved in a new residential development if the proposal makes efficient use of a site. The proposed development on Oates Street does just this, re-using existing buildings and improving the character of the Conservation Area. The rooms which will receive the least amount of daylight are proposed to be bedrooms, which future residents aren't expected to be spending all their time in.
- 6.4 Finally, the proposed development will greatly improve the outlook of the site for future residents, as well as users of neighbouring buildings and areas. There are examples of other developments in Dewsbury Town Centre which do not have an outlook as good as that proposed here (Figure 16).
- 6.5 The Council's reason for refusal has therefore been addressed effectively. Additionally, the efficient use of this brownfield site aligns with local and national planning policies, contributing positively to the revitalization of this heritage at-risk area. Given these factors, the development is a sustainable and practical solution to meet local housing needs while respecting the historical character of the area.
- 6.6 It is therefore respectfully requested that the appeal be allowed, and planning permission be granted for the proposed development.



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