



Appeal Decision

Site visit made on 29 April 2025

by F Rafiq BSc (Hons) MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 June 2025

Appeal Ref: APP/Z4718/W/24/3355773

1 Edward Latham House, Oates Street, Dewsbury, Kirklees WF13 1BB

- 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 A Cheema (FC Property Limited) against the decision of Kirklees Council.
 - The application Ref is 2024/62/90107/E.
 - The development proposed is the erection of extension and re-building of derelict buildings to form flats (within a Conservation Area).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would provide satisfactory accommodation for its future occupants with regards to privacy, outlook and light.

Reasons

3. The appeal property is a three-storey building within Dewsbury Town Centre. The building fronts Oates Street and has a yard area to the side of the building that separates it from the neighbouring building to the north.
4. The proposed scheme would provide one flat on each of its three floors. This includes a number of windows on the side elevation to the yard area, immediately beyond which is the two-storey elevation of the neighbouring building. Whilst the yard area will be landscaped, the close proximity and scale of this neighbouring building would limit outlook for future occupants, particularly as the elevated positioning of the neighbouring buildings to the west on Grove Street would create an enclosing effect on future occupiers of these side facing rooms. These factors would also limit the amount of natural light reaching the bedroom areas.
5. Although the windows to the side yard area would serve bedrooms, they are nevertheless habitable spaces even if future occupants are unlikely to spend all their time in the respective bedrooms and that each of the living rooms would be provided with sufficient light and adequate outlook. I recognise that paragraph 130 c) of the National Planning Policy Framework (Framework) does advocate a flexible approach in applying policies and guidance relating to daylight and sunlight, but it does also set out the resulting scheme would need to provide acceptable living standards.
6. The Council has also raised overlooking concerns that would arise as the neighbouring building beyond the yard has a number of windows on its southern

elevation that would face the proposed bedroom windows. Although the separation distance would only be around 6.5m-7.5m, the appellant has indicated that the neighbouring building at 9 Oates Street has a storage/warehouse use and my observations at the site visit also indicated that this neighbouring property is not in residential use. As such, and despite the close relationship, I do not consider that harmful overlooking would arise.

7. Nevertheless, I conclude for the reasons set out above that the development proposed would not provide satisfactory accommodation for its future occupiers, having regard to outlook and light. Accordingly, it would conflict with Policy LP24 of the Kirklees Local Plan Strategy and Policies, which seeks, amongst other matters, a high standard of amenity for future occupiers. It would also be contrary to Paragraph 135 of the Framework and the Housebuilders Design Guide SPD, which seek to ensure a high standard of amenity for existing and future users.

Other Matters

8. The appellant has drawn my attention to other decisions where approval has been given for residential development with smaller separation distances between buildings than this appeal proposal. Planning decisions are taken on individual merit, and I am not aware of the particular circumstances of each referenced case. In relation to 8 Corporation Street, this related to a prior approval application rather than a planning application. With it dating from 2015, it is not clear that it would have been subject to the same considerations as this appeal proposal is now, including in relation to future occupiers having access to adequate light. The referenced cases at 10 Union Street and 24A Bond Street significantly predate the current development plan, and although the development at 4 Church Street does contain bedrooms that would face neighbouring buildings at close-quarters, both the flats on this referenced site are 3 bedroom units, with the two larger bedrooms having an open aspect across Daisy Hill/Church Street. These referenced developments are not therefore comparable to the appeal before me.
9. The proposal would make efficient use of previously developed land, on a site that is currently vacant and in a derelict state. The development, including the proposed materials would assimilate with the existing building, improve the streetscene and would enhance the character and appearance of the Dewsbury Town Centre Conservation Area which has been identified as a 'heritage at risk' area. The introduction of a viable use would also secure the ongoing upkeep of a historic building. The flats proposed would contribute to meeting local housing need and make a positive contribution to the local economy, including through the provision of employment opportunities. These matters weigh in favour of the development and the weight to be attributed to them is set out further below.
10. The principle of the proposed residential use in a mixed-use area is acceptable. The development would provide refuse storage and collection in the courtyard and it would not adversely impact on the amenity of neighbouring users of the site or the setting of a nearby Grade 2 listed building. The proposed flats would also be compliant with internal space standards and matters such as those relating to land contamination, and the provision of a bird box can be addressed by condition. These are all however neutral matters and not ones which weigh in favour of the proposal.

Planning Balance and Conclusion

11. The proposal would enhance the heritage asset, the appeal building and the surrounding area. It would make efficient use of a previously developed site, but there is no clear evidence before me that similar benefits could not be achieved by an alternative form of development, and I therefore afford these matters moderate weight. The modest contribution that 3 flats would make to local housing supply and the short-term benefits during the construction phase of the development would also attract moderate weight.
12. The proposal would however give rise to an unacceptable harmful impact on the living conditions of future occupiers. This harm would be long lasting and would be contrary to the objectives of the Framework. I ascribe this substantial weight and as such, the benefits would not outweigh the harm identified.
13. The proposed development would not accord with the development plan as a whole and there are no other considerations, including the Framework, that indicate that I should take a different decision other than in accordance with this. I conclude that the appeal should be dismissed.

F Rafiq

INSPECTOR