

COMMITTEE REPORT

20231313	2-4 Gopsall Street	
Proposal:	Change of use of ancillary workshop at rear of flats to become self-contained dwellinghouse (2-bed) (Class C3); & alterations to building	
Applicant:	Mr H Patel	
App type:	Operational development - full application	
Status:	Change of use	
Expiry Date:	16 November 2023	
SS1	TEAM: PD	WARD: Wycliffe



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Summary

- The application is brought to committee as the planning agent is married to a Councillor.
- The main issues are the proposed living environment; neighbouring residential amenity, parking and drainage.
- The application is recommended for refusal on the basis of an unacceptable proposed living environment for future occupiers and harm to privacy of neighbours.

The Site

The application relates to a single and two-storey outbuilding situated at the rear of an end of terrace property. The outbuilding is known as 2 Gopsall Street and was in use as a workshop although is currently vacant. It is accessed via the alley way associated with the main building, 4 Gopsall Street, which itself has been split into 4 flats (2 bedsits at ground floor, 1x 1-bed flat and 1x 2-bed flat at first floor). There is an internal courtyard area which includes an external staircase to one of the first floor flats. The main building has a two storey outrigger extending significantly beyond its main rear elevation connecting to the outbuilding.

To the west the site is directly bordered by the theatre auditorium of the "Ark World Arts Centre". This site was approved as accommodation for a youth project scheme under application 19821204 and an extension was approved for use for the performing arts and the display of public art by the local school and community under application 20011154.

To the northwest the outbuilding is bordered by the Al-Qalam education and community centre which is used for events, social functions and meeting rooms. This site was approved for use as a centre for religious instruction under application 19901616.

To the northeast is the attached terraced residential property 6 Gopsall Street.

The site is within a critical drainage area and is within 250m of a known air pollutant use (St Peters Road service station).

Background

The following previous applications at the site are noted:

20081818 Change of use from workshop (Class B1) to one self-contained flat (Class C3)(1 x 2 bed)

- Conditional approval (permission not implemented)

20100879 Dormer extensions at front and rear of flat (Class C3)

- Conditional approval (permission not implemented)

The Proposal

The proposal includes the change of use of the outbuilding workshop to be used as a 2-bedroom self-contained dwellinghouse.

In terms of layout, at the ground floor there would be a foyer and then the main living area and kitchen. At the rear would be storage space and the bathroom. At first floor there would be 2 bedrooms. The dwellinghouse would be c.82sqm in internal floorspace.

There would be external alterations to the building to accommodate the change of use: there would be a new door and window at ground floor and two new windows at first floor.

Although the proposed elevation does not show the external staircase, it is shown on the proposed floor plan and as such would appear to be staying in situ.

The submission was accompanied by a cover letter and design & access statement.

Policy Considerations

National Planning Policy Framework 2023 (NPPF)

Paragraph 2 (Primacy of development plan)
Paragraph 11 (Sustainable development)
Paragraph 39 (Early engagement)
Paragraph 43 (Right information crucial)
Paragraph 60 (Housing supply)
Paragraph 111 (Unacceptable highways impact)
Paragraph 112 (Highways requirements for development)
Paragraph 130 (Good design and amenity)
Paragraph 185 (Noise and light pollution)

Core Strategy 2014 and Local Plan 2006

Development plan policies relevant to this application are listed at the end of this report.

Further Relevant Documents

Residential Amenity Guide SPD 2008
Department for Communities and Local Government - Nationally described space standard
GOV.UK Planning Practice Guidance – Noise [Noise - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/noise)

Consultations

Environmental Health – Noise Pollution Service

- Due to the proximity of two educational establishments and the arts centre/theatre, recommends that a noise assessment is undertaken to mitigate the existing external noise affecting the proposed conversion to a residential property.
- Recommends a condition with respect to construction noise to protect the amenity of existing nearby occupiers.

Consideration

Principle of Development

By reason of the site being within a primarily residential area, new residential development is considered acceptable in principle subject to creation of a good quality proposed living environment; consideration of neighbouring residential amenity, and parking.

Proposed Living Environment

Privacy and Overshadowing Impacts

Local Plan 2006 saved policy PS10 requires consideration of amenity for existing and proposed residents including in terms of privacy and overshadowing. The NPPF paragraph 130f requires a high standard of amenity for existing and future users of the site.

Having regard to the above policies, I consider that there would be inadequate privacy provision and harmful overshadowing for the future occupiers of the dwelling for the following reasons.

In terms of privacy, the existing rear facing first floor kitchen and bedroom windows in the main building would be facing towards the proposed ground floor living area window at a distance of c.7.8m. This is considerably less than the minimum standard of 21m stated in the Council's Residential Amenity Guide. As such, the future occupiers of the house would be overlooked by the neighbours at such a short distance as to cause a harmful sense of lack of privacy in their living area.

Secondly in terms of privacy, the existing rear facing first floor living room window in the main building would be facing towards the proposed bedroom 2 at an oblique angle at a distance of c.3.4m. Notwithstanding the oblique angle, the extremely close proximity of these windows would also result in the occupiers of the proposed bedroom being overlooked by the neighbour at such a short distance as to cause a harmful sense of lack of privacy in their bedroom.

Thirdly in terms of privacy, as noted above there is an external staircase within the courtyard leading up to the side of the outrigger. By reason of the proximity to the proposed ground floor living room window in the new house, neighbours using the external staircase would have a vantage point to look down into the living room at extremely close proximity. This would allow for severely intrusive views into the house again resulting in lack of privacy for residents in their living area.

Similarly the neighbours when at the top of the staircase would be able to look directly across to both bedroom windows at a distance of 5.3m. Again this relationship between the staircase and the bedroom windows would allow for severely intrusive views into the house resulting in lack of privacy for residents in their living area.

In terms of overshadowing and an overbearing impact, the proposed ground floor living room window would be in extremely close proximity to the side boundary wall and the tall side wall of the neighbouring theatre, as well as the existing external staircase and also be in close proximity to the side and rear walls of the main building. These walls would all serve to severely limit the amount of sunlight reaching the living room and cause an overbearing, oppressive and enclosing impact on outlook from the living room. Usually, walls that intersect a 45 degree line taken from the centre of a proposed window would be considered to have an overbearing impact, and the cumulative impact of all these walls would have a much greater harmful impact than that guideline. Additionally, the living area is of significant depth and laid out in such a way that there would be extremely limited light reaching the rear and kitchen parts of the room.

The proposed bedroom 2 would be facing towards the existing rear first floor wall of the main building at a distance of 3.6m. At this short distance, this wall would cause an oppressive and harmfully limited and overbearing outlook from the proposed bedroom 2 for the future resident.

The existing rear first floor wall of the main building would also intersect a 45 degree line drawn from the centre of the proposed bedroom 1 window and the side wall of the theatre would also be at such a close proximity as to cause a further oppressive and unacceptably limiting impact on outlook from the proposed bedroom 1 for the future resident.

In conclusion, it would be expected that principal room windows for new dwellings should have a reasonable level of clear outlook and allow for residents to enjoy privacy in their own homes, however the site is such that it is not possible for the proposal to come close to meeting the established standards for privacy and overshadowing set

out in the Residential Amenity Guide. As such, the proposed living environment would be unacceptable contrary to Local Plan policy PS10 and NPPF paragraph 130f.

Floorspace

I consider that the proposal would provide an acceptable amount of floorspace and storage space for occupiers in accordance with the nationally described space standards.

Amenity Space

As noted above, the NPPF paragraph 130f requires a high standard of amenity for existing and future users of the site. For a 2-bed dwellinghouse that could be used for a small family, this would include providing a reasonable level of private amenity space. The Residential Amenity Guide SPD, at page 28, lists the minimum space required for a 2-bed house, in this case 50sqm of private rear space. For avoidance of doubt, the definition in planning of a flat is “a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally”. The proposed house is not divided from any other part of the building horizontally, so the proposal would be related to the dwellinghouse requirement rather than the smaller flat requirement.

The proposal would not provide the proposed 2-bed dwellinghouse with any private amenity space. The small shared courtyard is overlooked by the other bedsits//flats and significantly overshadowed by the high walls of the surrounding built form to restrict sunlight available to the space. As such, the proposal would be unacceptable by virtue of providing a lack of any private space for a small family dwellinghouse resulting in harmfully poor amenity.

Staircase

As noted above there is an external staircase within the courtyard leading up to the side of the outrigger.

Noise Pollution

Local Plan 2006 saved policy PS10 requires consideration of amenity for existing and proposed residents including in terms of noise pollution. Policy PS11 states that proposals that are sensitive to pollution will not be permitted close to existing polluting uses, unless by so doing developers can demonstrate that adequate measures have been taken to prevent or minimise the impact of pollution. NPPF paragraph 130f requires a high standard of amenity for existing and future users of the site and paragraph 185 requires planning decisions to take into account the likely effects of pollution on health, including avoiding noise giving rise to significant adverse impacts on health and the quality of life.

The GOV.UK planning practice guidance on noise states that:

- *Noise needs to be considered when development would be sensitive to the prevailing acoustic environment;*
- *Decision-makers need to take account of the acoustic environment and in doing so consider whether or not a significant adverse effect is occurring or likely to occur. As noise is a complex technical issue, it may be appropriate to seek experienced specialist assistance when applying this policy.*

- *A specific factor to consider when relevant include is the cumulative impacts of more than one source of noise;*
- *Development proposed in the vicinity of existing businesses, community facilities or other activities may need to put suitable mitigation measures in place to avoid those activities having a significant adverse effect on residents or users of the proposed scheme.*
- *In these circumstances the applicant (or 'agent of change') will need to clearly identify the effects of existing businesses that may cause a nuisance (including noise, but also dust, odours, vibration and other sources of pollution) and the likelihood that they could have a significant adverse effect on new residents/users;*
- *The agent of change will also need to define clearly the mitigation being proposed to address any potential significant adverse effects that are identified.*

As noted above, the building is in extremely close proximity to walls of the adjacent theatre/arts centre as well as a religious building that is advertised as being in use for events and social functions. These buildings could contain large numbers of people and associated noise from shows and events on a regular basis including in evenings and weekends when residents in the proposed house would expect to be able to relax in their home peacefully. It is unclear how well insulated these neighbouring buildings are to be able to prevent escape of noise through the facades and there is also a rear courtyard to the religious building where people may gather. As such, the Noise Pollution Service have advised they require a noise impact assessment to assess noise levels from the nearby theatre/arts centre and religious building to the new house. I agree that this would be required given the GOV.UK guidance stated above, to ensure that noise from the nearby premises would not cause unacceptable impacts to residents of the proposed house.

The planning agent had been asked to provide a noise levels assessment as part of the validation of this application and was referred to the GOV.UK guidance stated above. However the agent in emails dated 10/08/2023 and 18/08/2023 stated that it would be impossible to measure the noise from the theatre because it was closed and said what was being requested was impractical.

As such, no noise impact assessment has been provided. Therefore, I conclude that in the absence of sufficient information to show otherwise, the proposal would be likely to cause unacceptable impacts for proposed residents in terms of noise and disturbance from the nearby noise generating uses, contrary to Local Plan policies PS10 and PS11, NPPF paragraphs 130f and 185 and the GOV.UK planning practice guidance.

I have considered whether a condition requiring a noise assessment would suffice and provide a satisfactory safeguard. However, such conditions requiring exploration of a relationship between an existing and new use to provide the location is an appropriate one for residential development would not be appropriate where an acceptance of the relationship between the two uses is already implicit in a grant of planning permission.

It is acknowledged that the existing nearby houses are also in close proximity to either the theatre or religious centre already, however the proposed house is very close to both, giving rise to a potential additional cumulative noise impact, and it is unclear if the walls in the proposed house are as well insulated as the walls in the main building. In any case I consider that the existence of other houses nearby would not preclude the consideration of providing suitable living conditions to the proposed residents in this application.

Further in terms of noise and disturbance to the proposed residents, the external staircase is metal and its use could allow for noise impacts in close proximity to the principal room windows of the house, again to the detriment of amenity.

Neighbouring Residential Amenity

Local Plan 2006 saved policy PS10 requires consideration of amenity for existing and proposed residents including in terms of privacy. The NPPF paragraph 130f requires a high standard of amenity for existing and future users of the site.

I am concerned there would be unacceptable intensification of harm to privacy of residents in the main building from the change of use for the following reason.

The right hand first floor window in the outbuilding workshop faces towards the rear outrigger living room window of the rear first floor flat at an oblique angle at a distance of 3.6m. Notwithstanding the oblique angle, the extremely close proximity of these windows currently result in the occupiers of the proposed bedroom being overlooked by those within the workshop mezzanine at such a short distance as to cause a harmful sense of lack of privacy in their bedroom. I consider that at current the workshop would be likely to be used during normal working hours. The change of use of the first floor in the outbuilding to become a habitable room means that there would be likely to be someone using the room more often, particularly at evenings and weekends. As such the existing lack of privacy for the residents in the first floor rear flat would be exacerbated by the proposed change of use. This harm to privacy would be unacceptable contrary to Local Plan policy PS10 and NPPF paragraph 130f.

Parking

NPPF paragraphs 111, and 112, Core Strategy policies CS14 and CS15, Local Plan saved policies AM01, AM02, AM12, and PS10 and Local Plan Appendix 001 – Vehicle Parking Standards require developments to provide a sustainable and effective transport network, appropriate levels of parking for non-residential development, ensure suitable access, and preserve safety for highway users including motorists, cyclists and pedestrians.

It would be likely that the house would attract 1 or 2 car users which would be added to the on-street parking demand as there is no off-street parking available at the site.

From my site visit and mapping imagery, Gopsall Street and the nearby Earl Howe Street has a high demand for on-street parking with parking half-on the pavement also occurring. However, NPPF paragraph 111 states that development should only be refused on highways grounds if there would be a severe impact. In this case, the additional small demand would only be a marginal increase on the existing parking demand. Having regard to this, in this particular instance the proposal would not cause unacceptable impacts on the highway network.

Alterations

The proposed alterations in terms of windows and the new door would not raise any issues in terms of design. Were the application otherwise acceptable, details of drainage could have been sought or conditioned.

Conclusion

In the context of a lack of a 5 year housing supply, in principle the provision of one new dwelling would be acceptable however the site is extremely constrained and the benefit of the addition of one dwelling to supply would be outweighed by the poor living

conditions for proposed residents in respect of privacy, overbearing impacts, lack of private amenity space and noise pollution and the harm to privacy of neighbours. The planning balance would be significantly tilted to refusal in light of the serious harms in those regards. I note that a previous application was granted in 2008 for a similar development. However, considerations at that time would now be significantly outdated and that permission has lapsed. This proposal must be considered against the current policy background and the current NPPF. I therefore recommend refusal of the application for the following reasons.

REASONS FOR REFUSAL

1. By reason of the close proximity of the existing rear facing first floor kitchen and bedroom windows in the main building to the proposed ground floor living area, the future occupiers of the house would be overlooked by the neighbours at such a short distance as to cause unacceptable harm to their privacy contrary to Local Plan 2006 saved policy PS10 and National Planning Policy Framework 2023 paragraph 130f.
2. By reason of the close proximity of the existing rear facing first floor living room window in the main building to the proposed bedroom 2, the future occupiers of the bedroom 2 would be overlooked by the neighbours at such a short distance as to cause unacceptable harm to their privacy contrary to Local Plan 2006 saved policy PS10 and National Planning Policy Framework 2023 paragraph 130f.
3. By reason of the vantage points provided by the external staircase and its close proximity to principal room windows in the proposed house, the future occupiers of the house would be overlooked by the neighbours at such a short distance as to cause unacceptable harm to their privacy contrary to Local Plan 2006 saved policy PS10 and National Planning Policy Framework 2023 paragraph 130f. The use of the metal staircase would also be likely to cause noise and disturbance by virtue of its proximity to all principal room windows in the new house.
4. By reason of the side boundary wall, tall side wall of the neighbouring theatre, existing external staircase and side and rear walls of the main building all being in close proximity to the proposed living area window, the living area would receive extremely limited natural light and suffer an overbearing, oppressive and enclosing impact on outlook, providing unacceptable amenity for future occupiers contrary to Local Plan 2006 saved policy PS10 and National Planning Policy Framework 2023 paragraph 130f.
5. By reason of the close proximity of the existing rear first floor wall of the main building and side wall of the theatre to the proposed bedroom 1 and bedroom 2 windows, the occupiers of the bedrooms would suffer an oppressive impact on outlook, providing unacceptable amenity for future occupiers contrary to Local Plan 2006 saved policy PS10 and National Planning Policy Framework 2023 paragraph 130f.

6. The proposed dwelling would not benefit from provision of any private amenity space, contrary to the Residential Amenity Guide SPD 2008 which requires a minimum of 50sqm for 2-bed small family dwellinghouses, and to the detriment of amenity of future occupiers contrary to National Planning Policy Framework 2023 paragraph 130f.
7. In the absence of sufficient information to demonstrate otherwise, the proposal would be likely to cause unacceptable impacts for proposed residents in terms of noise and disturbance from the nearby noise generating uses at the Ark World Arts Centre and the Al-Qalam education/community centre, contrary to Local Plan 2006 saved policies PS10 and PS11, National Planning Policy Framework 2023 paragraphs 130f and 185 and the GOV.UK planning practice guidance on Noise.
8. By reason of the close proximity of the proposed bedroom 2 window to the existing rear facing first floor living room window in the main building and the intensification of the use of the bedroom 2 window brought about by the change of use, the rear facing first floor living room would be overlooked by the new residents at such a short distance as to cause unacceptable harm to privacy of the rear first floor flat in the main building, contrary to Local Plan 2006 saved policy PS10 and National Planning Policy Framework 2023 paragraph 130f.

NOTES FOR APPLICANT

1. The City Council engages with all applicants in a positive and proactive way through specific pre-application enquiries and the detailed advice available on the Council's website. On this particular application no pre-application advice was sought before the application was submitted and no negotiations have taken place during the course of the application. The City Council has determined this application by assessing the proposal against all material considerations, including planning policies and any representations that may have been received. As the proposal is clearly unacceptable, it was considered that further discussions would be unnecessary and costly for all parties.
2. The application is refused on the basis of the following plans:
Site plan, floor plans, elevations - existing & proposed, drawing ref PJ_008_10-02, Revision C
Design & Access Statement - Revision A.

Policies relating to this recommendation

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| 2006_AM01 | Planning permission will only be granted where the needs of pedestrians and people with disabilities are incorporated into the design and routes are as direct as possible to key destinations. |
| 2006_AM02 | Planning permission will only be granted where the needs of cyclists have been incorporated into the design and new or improved cycling routes should link directly and safely to key destinations. |
| 2006_AM12 | Levels of car parking for residential development will be determined in accordance with the standards in Appendix 01. |
| 2006_PS10 | Criteria will be used to assess planning applications which concern the amenity of existing or proposed residents. |

- 2006_PS11 Control over proposals which have the potential to pollute, and over proposals which are sensitive to pollution near existing polluting uses; support for alternative fuels etc.
- 2014_CS02 Development must mitigate and adapt to climate change and reduce greenhouse gas emissions. The policy sets out principles which provide the climate change policy context for the City.
- 2014_CS03 The Council will require high quality, well designed developments that contribute positively to the character and appearance of the local natural and built environment. The policy sets out design objectives for urban form, connections and access, public spaces, the historic environment, and 'Building for Life'.
- 2014_CS06 The policy sets out measures to ensure that the overall housing requirements for the City can be met; and to ensure that new housing meets the needs of City residents.
- 2014_CS14 The Council will seek to ensure that new development is easily accessible to all future users including by alternative means of travel to the car; and will aim to develop and maintain a Transport Network that will maximise accessibility, manage congestion and air quality, and accommodate the impacts of new development.