



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 5th January 2012

Subject: Application 11/01241/FU – Appeal by Mr Carl Hattersley against the refusal of planning permission for the change of use of part basement of existing ground floor shop to form one 1-bedroom studio flat at 482 Roundhay Road, Leeds, LS8 2HU.

The appeal was allowed but an application for a full or partial award of costs was refused.

Electoral Wards Affected:

Roundhay

Yes

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION:

Members are asked to note the following appeal and costs decisions.

1.0 THE APPEAL WAS DEALT WITH BY WRITTEN REPRESENTATIONS

1.1 This application was reported to Plans Panel on 16th June 2011, where Members accepted the officer recommendation to refuse the application on the grounds that the basement flat would fail to provide an appropriate level of accommodation and amenity for future occupiers in terms of outlook and natural light. An appeal in relation to a similar scheme was dismissed in October 2010, however changes had been made at the site to reduce the height of a boundary wall, enlarge the stairwell to the rear of the building, and insert an additional window to try and overcome the previous Inspector's concerns. An application for an award of costs was made by the appellant on the grounds that they felt the revised scheme addressed the previous Inspector's concerns and that the local planning authority therefore acted unreasonably in refusing the application, and that the local planning authority was wrong to consider the application as retrospective, despite works having been carried out at the site. The costs application was refused.

2.0 ISSUES IDENTIFIED BY THE INSPECTOR

- 2.1 The main issue identified by the Inspector was whether the proposed flat would provide satisfactory living conditions for future occupiers, with particular reference to outlook and daylight.
- 2.2 The Inspector accepted a revised plan as part of the appeal showing railings along the rear boundary to prevent parking within the site, which sought to overcome the previous Inspector's concerns regarding the impact that cars parked to the rear of the building would have on the outlook from the bedroom window of the proposed flat. The Inspector confirmed that he was satisfied that no injustice would result from consideration of this revised plan.

3.0 SUMMARY OF COMMENTS

- 3.1 The Inspector accepted that the outlook from the proposed lounge and kitchen windows fell short of the standards recommended in Neighbourhoods for Living, but considered that this had been 'significantly improved' by the lowering of the boundary wall and enlargement of the stairwell. Whilst he noted that the outlook from these windows was still constrained by rear extensions to either side of the property and by the stairs leading to the first floor, and that much of the lounge area would not receive adequate natural light owing to the position of the window, he was 'satisfied that the sense of enclosure is not so great that the outlook would be unduly oppressive,' or that occupiers' enjoyment of these spaces would be seriously harmed, and did not feel that the need to use artificial lighting for much of the daytime would result in an unacceptable living environment or justify dismissal of the appeal on these grounds.
- 3.2 In terms of the living conditions in the proposed bedroom, the Inspector noted the previous Inspector's concerns that the outlook from the existing high level window was limited and was likely to be obstructed by an occupier's car in the adjoining yard. However he concluded that, whilst the additional window which has now been provided in the side elevation did not meet the standards in Neighbourhoods for Living, it did provide more daylight in the room, and in the light of the revised plans submitted with the appeal showing the fencing off of the area to the rear to prevent vehicles parking there, he was 'satisfied that the room would be an adequate living environment in terms of outlook and daylight,' as well as providing a small amenity area to the rear.

Conclusion

- 3.3 Whilst noting that the outlook and level of natural light reaching the proposed flat were still limited, and still did not comply with guidance in Neighbourhoods for Living, the Inspector did not consider that these were so bad as to seriously harm future occupiers' enjoyment of the flat or result in an unacceptable living environment to such a degree that this should justify dismissal of the appeal.

4.0 DECISION

- 4.1 The appeal was allowed subject to conditions by letter dated 25th November 2011.

5.0 COSTS

- 5.1 The Inspector concluded that, whilst he had reached a contrary view to the Council in relation to the merits of the case, the living conditions of future occupiers was a matter which required judgment to be exercised, and that he was satisfied that the local planning authority's report and appeal statement 'demonstrate a clear understanding of the proposals and include a details analysis of the various ways in

which the proposal would harm the occupiers' living conditions', with appropriate reference to the previous appeal decision and how it was considered that the proposal failed to overcome the previous Inspector's concerns. On this basis, the Inspector concluded that the local planning authority provided sufficient evidence to support its reasons for refusal, which were based on reasonable planning grounds, with reference to the development plan and other material considerations. He also noted that whilst the Council had referred to the scheme as 'retrospective' due to some works having been carried out, he had no reason to believe that this had prejudiced the decision of Panel Members, 'who resolved to refuse permission against the background of a detailed officer's report and a Councillors' site visit.' He therefore concluded that no unreasonable behaviour on the part of the Council had been demonstrated.

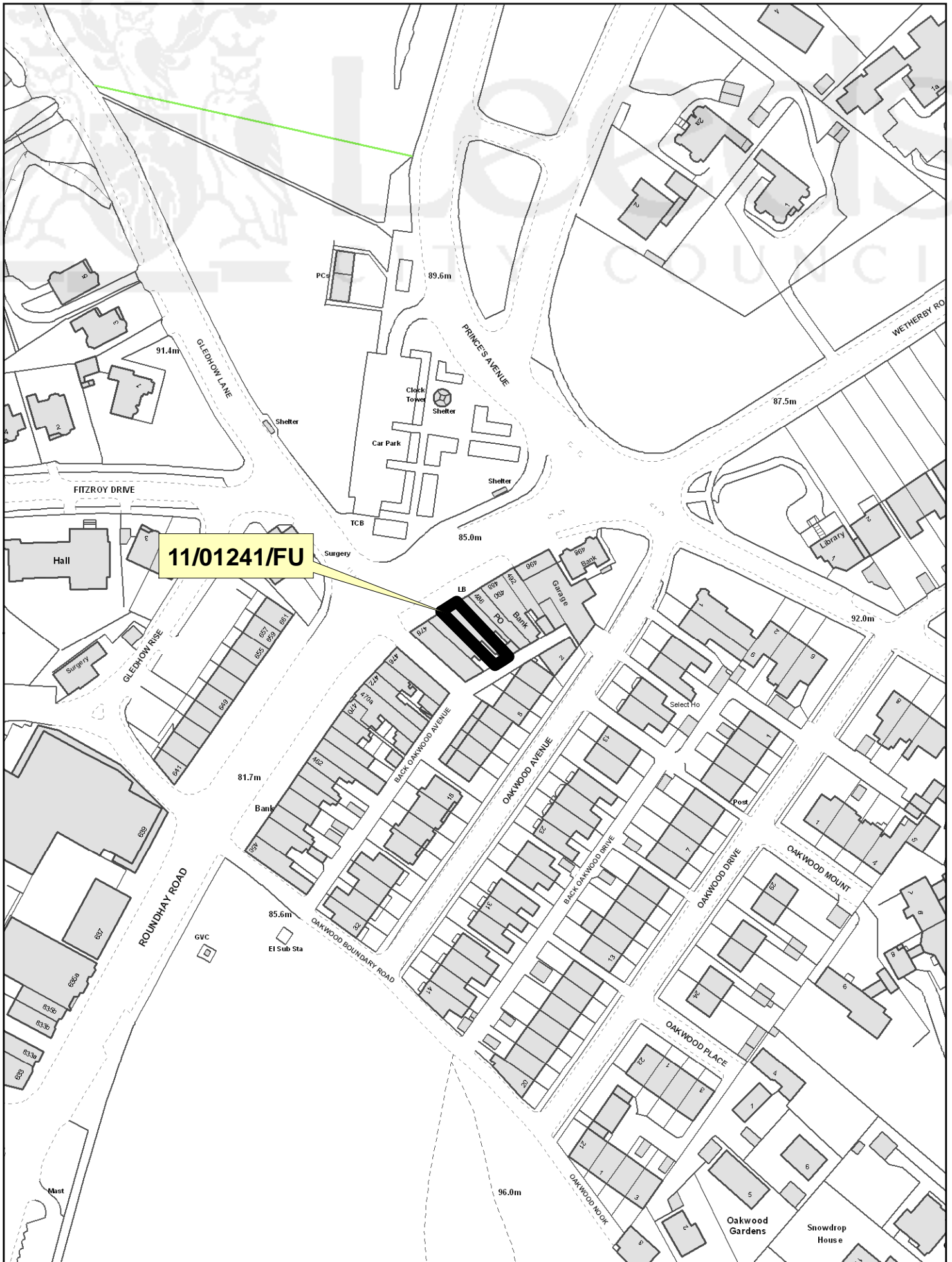
6.0 IMPLICATIONS

6.1 Whilst the Inspector in this particular instance considered the living conditions in the flat to be satisfactory despite falling below the standards in the Neighbourhoods for Living SPG in some respects, he also noted that this was a matter of judgment. The importance of the SPG guidance in terms of outlook and separation distances therefore remains an important consideration in the determination of applications, and Members are asked to note this and continue to apply this guidance.

Background Papers

Planning Application File

Inspector's Decision Letter



EAST PLANS PANEL