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## Appeal Decision

Site visit made on 13 November 2018

**by Thomas Hatfield BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 20<sup>th</sup> December 2018**

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**Appeal Ref: APP/W4223/W/18/3208889**

**87-89 Yorkshire Street, Oldham, OL1 3ST**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Samrum Investments Ltd against the decision of Oldham Metropolitan Borough Council.
  - The application Ref PA/341119/17, dated 24 November 2017, was refused by notice dated 20 July 2018.
  - The development proposed is a change of use of first and second floor from a night club (Sui Generis) and pub (A4 Drinking establishments) to 11 no. apartments (C3 Use Class) and self-storage units (B8 Storage or distribution).
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use of first and second floor from a night club (Sui Generis) and pub (A4 Drinking establishments) to 11 no. apartments (C3 Use Class) and self-storage units (B8 Storage or distribution) at 87-89 Yorkshire Street, Oldham, OL1 3ST in accordance with the terms of the application, Ref PA/341119/17, dated 24 November 2017, subject to the conditions set out in the attached schedule.

### Procedural Matters

2. The description of development given above is taken from the Decision Notice rather than the planning application form. This wording reflects alterations that were made to the scheme at the application stage, and has been agreed by both parties.
3. A revised elevations plan was submitted at the appeal stage (Ref DA17100.005 Rev 5). This shows repositioned windows on the western elevation of the building at first floor level. Given the very minor nature of these alterations, I do not consider that any party would be prejudiced by my acceptance of them. I have therefore determined the appeal based on the revised plan.

### Main Issue

4. The main issue is whether the development would result in unacceptable living conditions for future occupiers with regard to outlook, privacy, noise and disturbance, and adequate internal living space.

## Reasons

5. The appeal site comprises a vacant building on the northern side of Yorkshire Street. It is located in a relatively prominent position within Oldham Town Centre and has previously been used as a drinking establishment. The development proposes the conversion of the building to 11 apartments.
6. The sole source of outlook to Apartment 2 would be onto a narrow private amenity area at the rear. This would be positioned between 2 relatively high walls, which would restrict the amount of natural light that would reach the apartment windows. The outlook to those rooms would also be limited. However, the amenity area would be relatively open at either side which would allow some light into this area. It would also be for the sole use of the occupiers of that apartment. I return to this matter below.
7. The bedroom to Apartment 5 would look out onto a narrow alley between the appeal building and the Coliseum Theatre. Whilst the outlook from this room would be restricted, the apartment would otherwise have good outlook from its lounge/kitchen area to the north. Again, I return to this matter below. Separately, Apartments 4 and 10 would have an appropriate standard of outlook across the alleyway and open area along the side of the Coliseum Theatre. These alleyways to the west of the building are not publically accessible, and so would not significantly undermine the privacy of future occupiers of the development.
8. Both parties refer to the Technical Housing Standards, which set out a nationally described space standard for new dwellings. These standards have not been adopted in any development plan document in Oldham, and so cannot be given full weight in this case. However, each apartment would meet the relevant minimum standards for a 1 bed-space apartment.
9. The appeal building is in a town centre location and there are a number of drinking establishments and other late night uses nearby. However, the building could be fitted with appropriate noise mitigation, and I note that the Council's Environmental Health Officer is satisfied that this could be achieved. The precise specification of any noise mitigation could be secured by condition.
10. It is likely that there will be some disturbance to residents in Apartments 4, 5, 6, and 10 from the neighbouring theatre, particularly when set changes take place in the late evening. However, those activities are relatively infrequent and occur in the context of a town centre environment where there are other sources of external noise at that time. Accordingly, I do not consider that this matter would result in undue disturbance to future occupiers.
11. Separately, whilst it would be inconvenient for occupiers of the upper apartments to access the bin storage area, that matter alone would not justify withholding permission.

## Conditions

12. The Council suggested a number of conditions, some of which I have edited for clarity and enforceability. In addition to the standard time limit condition, I have imposed a condition that requires the development to accord with the approved plans. This is necessary in the interest of certainty. Further conditions relating to sound insulation, outdoor amenity space, boundary

treatments, and screening are necessary in order to protect the living conditions of future occupiers of the development.

### **Conclusion**

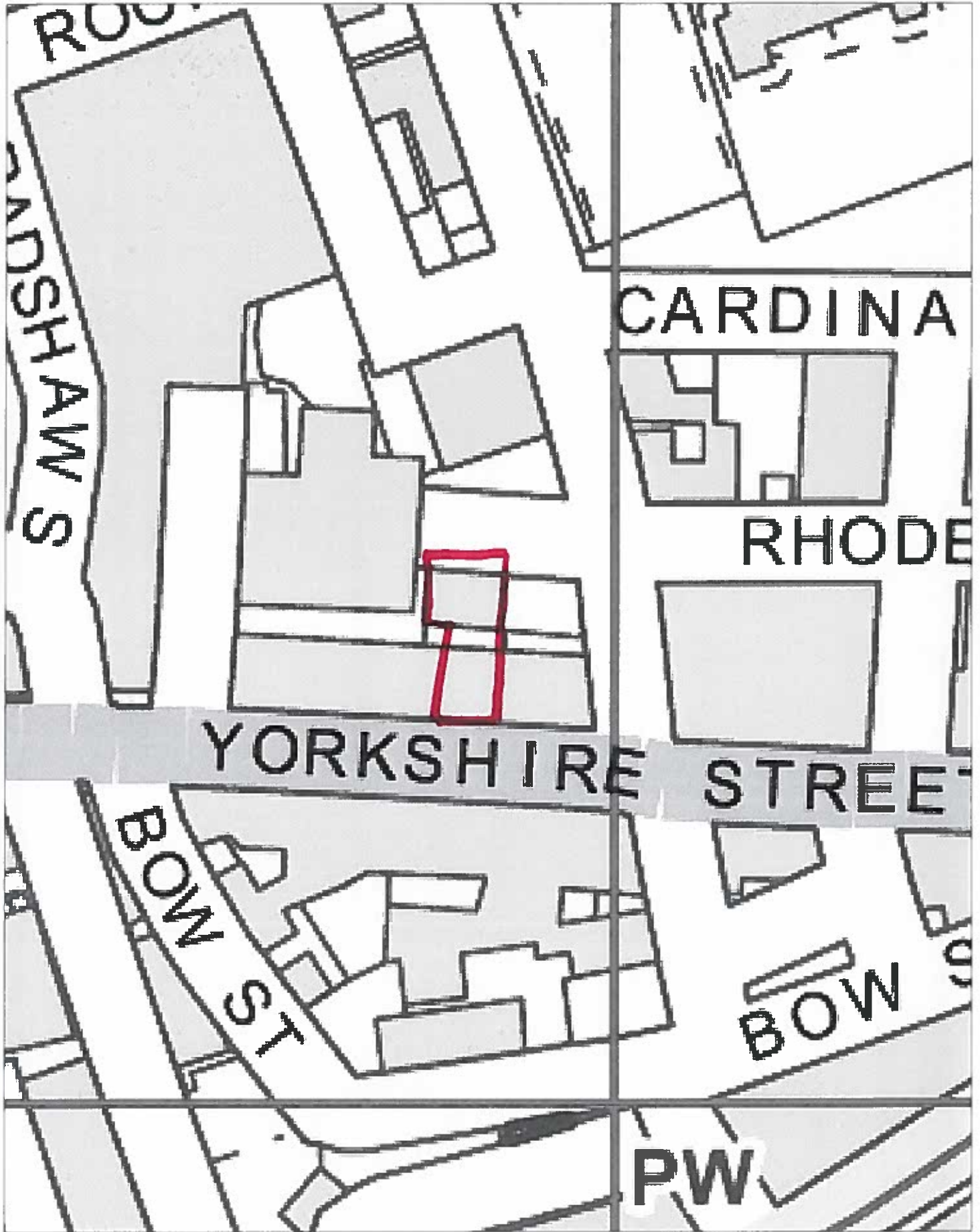
13. The proposal would involve the refurbishment of a derelict town centre site and would deliver significant regeneration benefits in this regard. As set out above, the outlook from some rooms in Apartments 2 and 5 would be suboptimal. However, given the layout of the existing building, it is difficult to see how the development could be altered to improve this. Future occupiers would also be aware of the situation before deciding whether to live at the property.
14. In these circumstances, and on balance, I conclude that the development would not result in unacceptable living conditions for future occupiers with regard to outlook, privacy, noise and disturbance, and adequate internal living space. It would therefore accord with Policy 9 of the Oldham Joint Core Strategy and Development Management Policies (2011). This policy seeks to ensure, amongst other things, that new development does not harm the living conditions of future occupiers.
15. For the reasons given above I conclude that the appeal should be allowed.

*Thomas Hatfield*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: DA17100.001 Rev 1; DA17100.002 Rev 2; DA17100.003 Rev 13; DA17100.004 Rev 1; DA17100.005 Rev 5.
- 3) Prior to the first occupation of the dwellings hereby approved, a detailed scheme of acoustic insulation and ventilation shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of any dwelling hereby approved and shall thereafter be retained.
- 4) Any works to facilitate the creation of the proposed first floor dwellings above the ground floor unit shall incorporate a scheme of acoustic insulation between the intervening floor/ceiling. A sound insulation test shall be undertaken to demonstrate that the floor achieves the following minimum insulation standards: 1. Impact L'nT,w 55dB, 2. Airborne DnT,w 55dB, 3. Airborne DnT,w + Ctr 49dB. Prior to the first occupation of the proposed first floor dwellings, the results of this test shall have been submitted to and approved in writing by the Local Planning Authority. The sound control measures shall thereafter be retained.
- 5) Prior to the first occupation of Apartment 2, the proposed outdoor amenity space, associated boundary treatment, and boundary screen to the courtyard, shall be fully implemented and retained thereafter.
- 6) Prior to the first occupation of Apartment 10, the proposed boundary screen to the courtyard shall be fully implemented and retained thereafter.



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