
Appeal Decision

Site visit made on 16 September 2016

by Graham Dudley BA (Hons) Arch Dip Cons AA RIBA FRICS DipTP MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 11 October 2016

Appeal Ref: APP/L1765/W/16/3151829
7 St Peter Street, Winchester SO23 8BW

- 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 Mr M Hendry against the decision of Winchester City Council.
 - The application Ref 16/00047/FUL, dated 7 January 2016, was refused by notice dated 5 April 2016.
 - The development proposed is change of use from an Office (B1) to a dwellinghouse (C3).
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Procedural Matters

Application for costs

1. An application for costs was made by Mr M Hendry against Winchester City Council which will be the subject of a separate decision.
2. A subsequent application has now been approved by the council and it does not wish to contest the appeal. However, the appeal has not been withdrawn and therefore a decision is necessary.

Decision

3. The appeal is allowed and planning permission is granted for the change of use from Office (B1) to a dwellinghouse (C3) at 7 St Peter Street, Winchester SO23 8BW in accordance with the terms of the application, Ref 16/00047/FUL, dated 7 January 2016 and the plans submitted with it, subject to the condition that the development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Main Issues

4. The main issue is whether an affordable housing contribution is reasonable.

Reasons

5. The Planning (General Permitted Development) Order 2015 as amended [GPDO] permits certain changes of use from office to residential. However, as accepted by all parties that does not apply if the building is a listed building, which includes 7 St Peter Street. Therefore, any proposed change of use cannot be considered under the GPDO, but a planning application has to be made and the application considered against the council's development policies. This was the finding of the inspector in the appeal APP/L1765/A/13/2202937 where it was clearly stated 'however, it is a matter of fact that the new class of PD does

- not apply to listed buildings, so the appeal development requires planning permission', concluding the council was within its rights to attach more weight to its development plan.
6. I acknowledge that the inspector then went on to explain why he, as decision maker, was attaching weight to the government's aim to increase this type of change of use. The appellant suggests that it is only the listed building aspects that are to be considered because of the GPDO. That is not the case; as the GPDO does not apply, the application is to be considered on its merits against all relevant development plan policies, taking account of material considerations, such as the government aims. The GPDO can only take precedence over the development plan where the GPDO applies.
 7. The appellant suggests that Policy CP3 does not apply to development that is not market led. He suggests that market led is development inspired and driven by the incentive to meet market demands. Here he notes the aim is to return a listed building to its historical use, there is no land deal or profit. However, the wording of the policy is plain 'In order to help meet affordable housing needs, all development which increases the supply of housing will be expected to provide 40% of the gross number of dwellings as affordable housing, unless this would render the proposal economically unviable'. There is no evidence that the proposal would be unviable and clearly it will increase the supply of housing. In addition, the fact that the appellant does not wish to sell the house does not necessarily mean that it is not market led. Therefore, the proposal, without affordable housing provision is contrary to Policy CP3.
 8. However, the government's aim of increasing housing supply is important. A Written Ministerial Statement indicates that national planning policy defining the specific circumstances where contributions for affordable housing and tariff style planning obligations should not be sought from small scale and self-build development. This was successfully challenged in the courts, but in May 2016 the Secretary of State's appeal was upheld. I therefore attach considerable weight to the WMS and note that it came into effect after the development plan. I also attach some weight to the fact that had this not been a listed building it would have received planning permission through permitted development.
 9. The proposal would have little if any impact on the significance and special architectural and historic interest of the listed building or on the conservation area.
 10. In terms of sustainability the development provides benefits in relation to the social and economic roles identified in the National Planning Policy Framework and there is no environmental harm, but beneficial use of a listed building, restoring it to its original use. Overall, I conclude that the requirement of the development for affordable housing is outweighed by these other considerations and the appeal should be allowed. No conditions are proposed, I shall therefore just attach the standard commencement condition.

Graham Dudley

Inspector