
Appeal Decision

Site visit made on 20 September 2016

by S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI

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

Decision date: 14TH October 2016

Appeal Ref: APP/T1410/W/16/3150687

4-8 Pevensey Road, Eastbourne, East Sussex BN21 3HJ

- 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 Wildwood Properties Ltd against the decision of Eastbourne Borough Council.
 - The application Ref 150050, dated 28 January 2015, was refused by notice dated 29 January 2016.
 - The development proposed is change of use from vacant wine bar and taxi office at ground floor and basement levels to 1 x 2 bedroom apartment, 2 x 1 bedroom apartments and studio flat together with removal of existing shopfronts and replaced with glazed doors, new entrance doors, provision of refuse storage facility and railings to front boundary and associated alterations.
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Application for costs

1. An application for costs was made by Wildwood Properties Ltd against Eastbourne Borough Council. This application is the subject of a separate decision.

Decision

2. The appeal is allowed and planning permission is granted for a change of use from vacant wine bar and taxi office at ground floor and basement levels to 2 x 2 bedroom apartments, 1 x 1 bedroom apartment together with removal of existing shopfronts and replacement with glazed doors, new entrance doors, provision of refuse storage facility and railings to front boundary and associated alterations at 4-8 Pevensey Road, Eastbourne, East Sussex BN21 3HJ, in accordance with application Ref 150050, dated 28 January 2015, subject to the conditions set out in the attached Schedule of Conditions.

Procedural Matter

3. During the time the Council was considering the application amended plans were submitted and accepted. Consequently, the description of the development on the decision notice and on the appeal form differ from that which was set out on the original application form. The amended description was: "change of use from vacant wine bar and taxi office at ground floor and basement levels to 2 x 2 bedroom apartment, 1 x 1 bedroom apartments together with removal of existing shopfronts and replaced with glazed doors, new entrance doors, provision of refuse storage facility and railings to front boundary and associated alterations". It is agreed by the parties that this accurately reflects the proposals shown on the amended plans and I have used
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this description in my decision incorporating minor typographical changes for the sake of accuracy and clarity.

Main Issues

4. The main issues are:

- a) whether the proposed change of use would provide satisfactory living conditions for future occupants of the proposed apartments in relation to noise and disturbance;
- b) the effect of the proposal on the character and appearance of the area.

Reasons

Noise and disturbance

5. Nos 4-8 Pevensey Road is close to the primary shopping area within Eastbourne Town Centre, but lies outside the area designated as secondary retail frontage. The area is characterised by a mix of commercial uses including several hot-food takeaways, a bingo hall, a taxi office, a hairdresser and some vacant premises. On its south western side the site is close to the rear part of the Cameo night club. Although there are residential uses at first floor level in several of the surrounding buildings there do not appear to be any at ground floor level. However, immediately east of Susans Road there is a distinct change of character to predominantly residential uses.
6. Although not cited in the Council's reasons for refusal, my attention has been drawn to two policies in the Eastbourne Town Centre Local Plan which have some relevance to this case. Firstly, Policy T24 indicates that the appeal site lies within a 'Potential Area of Change' and could therefore be part of a comprehensive redevelopment of a wider area. Secondly, the site is close to an area identified by Policy T7 for 'Supporting the Evening and Night-time Economy' which is focused on the eastern section of Terminus Road. This policy seeks to support activities which would bring life and vitality into the town centre during the evening and night. The Council's objection in principle to residential use on the ground floor of Nos 4-8 therefore appears to be primarily related to noise and disturbance that could arise from a future increase in activities associated with the night-time economy.
7. In this case there was no substantiated evidence that existing evening or night time activities in the locality give rise to noise or disturbance related problems. However, representations were made on behalf of the Cameo Club which operates in an adjacent building accessed from Langney Road. In objecting to the proposal, the Club considered that there could be a conflict between its commercial activities and a residential use. This is a matter of some weight as Paragraph 123 of the National Planning Policy Framework (the Framework) states that existing businesses should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established. The Club therefore urged the Council to seek a noise assessment and to consider whether suitable mitigation could be integrated into the development as part of its assessment of the proposal.
8. Paragraph 109 of the Framework also advises that new development should not be put at unacceptable risk of being adversely affected by noise pollution. In view of these concerns the appellant commissioned a noise survey which

was undertaken for a week in July 2015. The survey measured noise levels associated with all environmental sources and concluded that the principal source of noise was found to be road traffic. The highest noise levels are currently experienced on the ground floor elevation that directly faces Pevensey Road. The average existing daytime noise level was 61dB(A), whilst at night it was 58dB(A). The method and equipment used in the survey and its results have not been contested by the Council.

9. It would therefore appear that there are no identified noise problems that relate specifically from the existing night-time activities in the vicinity of the site. Furthermore, no information was presented with the appeal to suggest that there are development proposals currently under consideration in the locality that could lead to a significant increase in noise or disturbance. The determining factor in this case is therefore whether the existing noise from road traffic can be adequately mitigated.
10. The World Health Organisation guidelines recommend that the daytime noise level, L_{Aeq} dB(A), should not exceed 35dB. This is clearly exceeded at present. In order to reduce noise levels to acceptable levels in the proposed living areas of Apartments 1 and 3 it would be necessary to provide mitigation measures. The required sound reduction on the front façade would be a minimum of 26dB. It is suggested that this could be achieved through the use of thermal double glazing. This is acknowledged in the officer's report but no specific reasons for rejecting this as an acceptable means of mitigation were given. However, it seems to me that the use of double glazing is a well-established means of reducing the harmful effects of traffic noise. The consultant's report also recognised that windows would need to be kept shut to reduce noise to acceptable levels. It would therefore be necessary to use acoustic air bricks or trickle vents to provide adequate background ventilation. Whilst this may not be ideal, in my view, it would be an insufficient reason to reject the proposal as a whole.
11. The bedrooms in Apartment 2 would face the rear courtyard. The survey showed that there were a small number of occasions when the internal L_{max} value would exceed 42dBA at night, if windows were open. This is considered unacceptable as this level of noise should not be exceeded on anything other than an exceptional basis. However, mitigation measures were recommended by the consultants and would need to include provision of standard double glazing and an alternative means of ventilation. This would ensure that the recommended L_{Amax} would not be exceeded.
12. I am therefore satisfied that, subject to conditions to secure the necessary mitigation measures, the noise levels arising from the existing activities in the vicinity of the appeal site could be reduced to acceptable levels. In coming to this view I have had regard to the representations made on behalf of the Cameo Club who recognise that its commercial activities could generate noise and disturbance for future occupants of the proposed development. However, I concur with the Club's suggestion that this could be prevented by a condition to provide adequate noise attenuation measures.
13. Taking all these matters into consideration, I conclude that the proposed development would not give rise to unsatisfactory living conditions for future occupants, in relation to noise and disturbance. It would comply with Policy B2 of the Eastbourne Core Strategy Local Plan (Core Strategy), which seeks to

protect the amenity of existing and future residents. It would also accord with the National Planning Policy Framework's (the Framework) requirements to prevent new development from being adversely affected by unacceptable levels of noise and mitigate the adverse impacts of noise on quality of life.

Character and appearance

14. The north eastern side of the appeal site is adjacent to the Central Methodist Church. This is an attractive and imposing stone building that is Grade II listed and occupies the full depth of the area between Pevensey Road and Langney Road. The upper floor front elevation of Nos 4-8 has a uniform fenestration arrangement with matching window detailing. The ground floor elevation of No 4 has retained three arched full height glazed openings. However, the shopfront elevation associated with the former taxi office is an unsympathetic aluminium replacement which is out of character with the remainder of the building. At present a series of plastic refuse bins within the forecourt adds to the site's cluttered and untidy appearance. In my view the proposal would significantly improve the overall appearance of the front façade and enhance the setting of the adjacent listed church. These factors weigh in the scheme's favour.
15. In this context, the proposed bin store, which would have a flat roof and be in a prominent position in front of the building, would appear somewhat out of keeping with the rest of the otherwise improved elevation. However, it is suggested that there are alternative means of accommodating some, or all, of the bin storage elsewhere on the site alongside the proposed cycle store. This would reduce the requirement for a facility of the size and scale currently proposed. I am therefore satisfied that an alternative arrangement, which would be an improvement on the current situation, could be found and secured by an appropriate planning condition.
16. I conclude that the proposed development would not be harmful to the character and appearance of the area and would comply with Policy D10A of the Core Strategy, which requires development to be high quality and to make a positive contribution to the overall appearance of the area.

Conditions

17. In addition to the standard time limit the Council has suggested various conditions in the event that the appeal was allowed. I have considered these in the light of the tests set out in Paragraph 206 of the Framework.
18. I have imposed a condition specifying the plans in the interests of certainty. A condition securing approval to the materials to be used on the external finishes of the building is justified in the interests of the appearance of the development.
19. A condition to agree the arrangements for the storage of refuse, recyclables and bicycles and secure their timely implementation is required in the interests of the satisfactory functioning of the development and the appearance of the surrounding area.
20. I have amended the wording of the conditions suggested by the Council in relation to the installation of the necessary glazing and associated ventilation requirements to mitigate the effects of noise for the sake of clarity, precision and enforceability.

Conclusions

21. The Government is seeking to significantly boost the supply of housing and requires applications for housing development to be considered in the context of the presumption in favour of sustainable development. The Council acknowledges that it cannot demonstrate a five year supply of housing sites. The appeal site is within easy reach of a wide variety of services and facilities in the town centre. The proposed development would provide three units of accommodation which would make a small contribution to local housing need and bring vacant premises back into effective use. It would also improve the appearance of the existing building and enhance the setting of the listed church. All these factors weigh in the scheme's favour.
22. The appeal site is close to an area of the town centre where the night-time economy is supported and is within an area that could be the subject of a comprehensive redevelopment. However, there was no substantiated evidence to demonstrate how either of these factors would result in a significant increase in the noise experienced by future residents living in the proposed apartments. I have therefore found that, subject to the implementation of adequate measures to mitigate the effects of existing noise, future occupants would not be unduly disturbed.
23. I therefore conclude that the appeal should be allowed, subject to conditions.

Sheila Holden

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall begin no later than three years from the date of this decision.
2. Other than to comply with Conditions 3-6 of this permission the development hereby permitted shall be carried out in accordance with the following approved plans: Drawing Nos: 4310-060 Rev B, 4310-064, 4310-065, 4310-070 Rev B, 4310-074 Rev B, 4310-075 Rev C, 4310-080 Rev B and 4310-081 Rev A.
3. No development shall commence until details of the materials to be used in the external surfaces of the development hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
4. Notwithstanding the details shown on Drawing No 4310-075 Rev C, no development shall take place until a scheme for the provision of storage for refuse, recyclable materials and bicycles has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented in accordance with the approved details prior to first occupation of any of the apartments hereby permitted and shall be retained thereafter as approved.

5. No development shall take place until details of the proposed glazing to meet the acoustic performance set out in paragraph 5.2.3 of the Planning Application Noise Assessment (Road) by Acoustic Associates Sussex Ltd, project J1815 and dated 26 November 2015, have been submitted to and approved in writing by the local planning authority. The glazing shall be installed in accordance with the approved details and retained thereafter as approved.
6. No development shall take place until full details of a scheme to provide mechanical ventilation of the proposed apartments, and which meets the trickle and purge ventilation requirements of the Building Regulations without the need to open windows, has been submitted to and approved in writing by the local planning authority. The mechanical ventilation scheme shall be fully implemented in accordance with the approved details prior to first occupation of any of the apartments hereby permitted and retained thereafter in accordance with the approved requirements.

End of schedule of conditions