The Planning Inspectorate

Appeal Decision

Site visits made on 6 December 2016

by R J Marshall LLB DipTP MRTPI

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

Decision date: 25 January 2017

Appeal Ref: APP/G1250/W/16/3156131
40, Holdenhurst Road, Bournemouth, BH8 8AD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
- The appeal is made by Mr Cliff Towler against the decision of Bournemouth Borough Council.
- The application Ref 7-2016-7597-W, dated 29 April 2016, was refused by notice dated 22 June 2016 internal only alterations from office to residential unit.
- The development proposed is internal only alterations for conversion from office to residential unit.

Decision

1. The appeal is dismissed.

Background

2. Under Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule, is permitted development. This is subject to certain limitations, none of which apply in this case. However, development under Class O is permitted subject to the condition that before beginning the development an application must be made to the local planning authority for a determination as to whether the prior approval will be required as to: a) transport and highway impacts of the development, b) contamination risks on the site, c) flooding risks on the site, and d) impacts of noise from commercial premises on the intended occupiers of the development.

3. In this case as none of the limitations apply the proposal is, as the Council accepts, permitted development. And the Council is satisfied on items a, b and c above. However, the Council considers that harm would be caused in regard to item d. On this basis prior approval was refused.

4. The Council has also raised the issue of the site's location relative to the Dorset Heathlands Special Protection Area (SPA) and the requirement for a financial contribution to mitigate against harm that would otherwise be caused to that area by the proposed development. No such contribution has been made.

However, the Council is satisfied that this concern may be addressed by a separate process and no evidence has been given to the contrary.

Main Issue

5. In light of the above the main issue in this appeal is whether noise from commercial premises in the area would detract from the living conditions of the intended occupiers of the proposed flat.

Reasons

6. The appeal site is in an edge of town centre location fronting onto Holdenhurst Road. It is proposed to change the use of an office, Suite 3, to a residential flat. The office to be converted is at first-floor level in a much larger building. At ground floor level in this building are a brasserie/bar and a resturaunt/pub. The remainder of the building is in office use with the exception of residential units on the whole of the second floor. Suite 3 is at the rear of the building and has windows looking out onto a car park.

7. Holdenhurst Road is a major road. Along this road, and surrounding area, is a mixture of uses including residential accommodation, shops, restaurants and bars. Holdenhurst Road in the vicinity of the appeal site contains a fairly high concentration of commercial premises with late night opening hours. These include restaurants, bars/public houses, hot food take-aways and nightclubs. The appeal site is in close proximity to the Old Fire Station, a licensed premises providing entertainment and primarily for students comprising themed nights and live music etc.

8. In light of the Council's concerns I saw the site and surrounding area in the late evening as well as during the day. On my evening visit there was an event at the Old Fire Station. In the daytime traffic flows along Holdenhurst Road were high and the predominant noise source was from traffic. However, at the rear of the site, shielded by the main building, traffic noise was notably less. It did not stand out substantially from a general relatively low background hum of noise of a level common to most urban areas.

9. From what I saw as the evening progressed traffic flows along Holdenhurst Road started to decrease. And at the same time pedestrian footfall, mostly of those in a younger age range, started to increase. In most cases those pedestrians appeared to be making their way to some of the late night opening premises in Holdenhurst Road, including the Old Fire Station, or towards the town centre. Other than from the occasional boisterous outburst noise from those walking along Holdenhurst Road was not excessive and by no means over intrusive from the rear of the appeal site.

10. Some distance from the appeal site towards the town centre there was at times a noisy congregation of people outside a night club and adjacent bus stop. At times, when close to this property the noise of music breaking out from it was quite intrusive. However, this premises was sufficiently distant from the appeal site for this to have no substantial impact on it.

11. I now turn to noise associated from premises closer to the appeal site. There was little if any noise breakout from the brasserie/bar and a resturaunt/pub at ground floor level in the building in which the appeal premises is located. It is conceivable that in the summer noise could arise from their open seating areas

on the Holdenhurst Road frontage. However, all that I saw suggested that this would be unlikely to lead to any significant noise impact at the rear of the site.

12. On my evening visit there was an intermittent flow of customers to the Old Fire Station. The premises was entered from Holdenhurst Road and customers quickly moved through into the building. Given barriers located on the pavement it is conceivable that at times queues may form outside. However, any noise arising from this would be shielded from the area to the rear of the road in which the proposed flat would be located.

13. There is a car park at the rear of the building in which the appeal site lies. Access to and from this car park is from Cotlands Road which has a junction with Holdenhurst Road adjacent to the building in which the appeal site lies. The Council says that this car park and adjacent area is heavily used by customers queuing to gain access to the Old Fire Station and to leave the premises at the end of the night. This would be in an area in quite close proximity to the rear windows of the proposed flat. As such this area, if used extensively in the matter suggested, would have the potential to cause considerable noise and disturbance to the flat's occupants. This would especially be so given relatively low background noise levels in this vicinity.

14. The appellant says that the car park is only used for parking during the day and this was borne out by my visit for a sign at the car park entrance indicates that it is for permit holders only between 8.00am and 5.00pm. However, there is the potential for pedestrian access to the rear of the Old Fire Station which gives credence to the Council's observation. On my evening visit I saw no such activity taking place. However, this provided a snapshot view only. I have no means of knowing at what level of capacity the Old Fire Station was operating that night and whether the absence of pedestrian access being taken though the car park was the norm or not.

15. There is also the matter of noise breakout from the Old Fire Station. The Council says that its Environmental Health Department is investigating noise complaints with regard to loud music from this property. At the time of my evening visit I heard at the rear of the appeal site only a low muffled beat of music from the Old Fire Station that was not greatly audible above already low levels of background noise. I doubt that it would be heard from within the proposed flat. However, such a snapshot view is not necessarily representative of the noise breakout that could occur given the lack of evidence on the level of activity within the Old Fire Station that evening and the possibility that rear doors could be left open. With the proximity of the Old Fire Station to the appeal premises there is the potential for harm through noise breakout.

16. The Council has suggested a noise condition be imposed in the event of the appeal being allowed. However, in the absence of evidence that the internal noise levels could be limited to the extent there is no indication that it would overcome the Council's concerns.

17. It is concluded that there is the potential for noise arising from the use of commercial premises in the area to detract from the living conditions of the intended occupiers of the proposed flat.

Conclusion

18. For the reasons given above it is concluded that the appeal should be dismissed.

R J Marshall

INSPECTOR