

Appeal Decision

Site visit made on 18 January 2017

by Jonathan Price BA(Hons) DMS DipTP MRTPI

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

Decision date: 17th February 2017

Appeal Ref: APP/J1915/W/16/3161904

Millars One, Southmill Road, Bishop's Stortford, Hertfordshire CM23 3DH

- 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 S Webb against the decision of East Hertfordshire District Council.
 - The application Ref 3/16/1654/FUL, dated 20 July 2016, was refused by notice dated 12 October 2016.
 - The development proposed is conversion of existing premises into 11 flats.
-

Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr S Webb against East Hertfordshire District Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this case are:
 - The effect on the local economy;
 - The effect on the local provision of sports and recreational facilities;
 - Whether the proposed flats would provide acceptable living conditions for future occupants, with particular regard to outlook and the provision of private amenity space;
 - Whether the proposal makes adequate provision for on-site car parking;
 - Whether the scheme makes adequate provision for any additional demand placed on local infrastructure, services and facilities.

Reasons

The proposal and its surroundings

4. The proposal relates to part of Millars One, a former Maltings building fronting onto Southmill Road, located south of and close to the town centre. This building is one three such former industrial buildings which have been converted to provide a complex of mixed uses. Millars One occupies the north-western side of the Maltings site and is of a comparable width and length to Millars Two, which is located in an equivalent position along the south-eastern
-

side. All three buildings have the elongated form typical of their former use, although Millars Three, which is the central unit, is the largest and of substantially greater width and height.

5. There is a pair of vehicular entrances to the site from Southmill Road, where there is parking at the front of the buildings. These access the two service roads which run between the buildings, which also have parking alongside, and reach a larger area of parking at the rear of the site. A bridge leads from the rear car park across the River Stort and provides unstepped pedestrian access from this site to other parts of the town, including the train station.
6. The proposal relates to a main central section of Millars One where an existing gymnasium use occupies two floors. The front part of the building, which is more domestic in scale, would remain as a restaurant/takeaway and the section immediately beyond this would remain a dance studio. A rear ground floor part of the building would stay occupied by another takeaway and the final section, outside the appellant's ownership and closest to the river, houses another restaurant.
7. The conversion would apply only to the parts of Millars One currently used as a gymnasium where the upper-floor would provide six one-bedroom flats and the ground-floor five two-bedroom flats. Five spaces at the front forecourt area of Millar One are indicated as providing the car parking for these 11 flats where cycle storage is also shown. The existing waste and recycling store situated at the rear of Millars Two is indicated as providing for the needs of this proposal.

Effect on the local economy

8. The proposal relates to premises within the urban area of Bishop's Stortford, where the principle of further residential development would be acceptable. However, this conversion to 11 flats should be assessed against the wider objectives in the East Herts Local Plan Second Review April 2007 (LP), where Policy EDE2 seeks to prevent the loss of employment sites, outside identified Employment Areas. From the supporting text it is clear that the aim of this policy is to support local employment opportunities and preserve a broad base to the town's economy. This policy aims to maintain a balanced mix of residential and employment uses in Bishop's Stortford which would contribute to the achievement of sustainable development, and be consistent with the aims of the National Planning Policy Framework (the Framework). Therefore Policy EDE2 should be given significant weight.
9. The various units in the Maltings provide accommodation for a mixture of small businesses which, whilst falling within a variety of planning use class categories, mostly provide employment. As a whole the Maltings complex provides a quite vibrant mix of small businesses and the loss of accommodation to flats would detract from this. Where the Council has recently permitted the conversion of parts of the Maltings to residential the evidence is that this has only related to upper-floor accommodation. I have taken account of the evidence provided over the viability of the present gymnasium operation. However, the conversion to residential flats would result in the loss of space with the potential to support an alternative employment provider, which would dilute the main use of these buildings in providing the accommodation for a mixture of small businesses.

10. The appellant refers to Policy ED1 of the Council's Pre-Submission Draft of the Local Plan (DLP) which specifies the protection of employment premises as applying to Use Classes B1, B2 and B8 but not D2 (Assembly and Leisure), which the current gymnasium use falls under. However, the Council has not relied on this emerging policy in its reason for refusal and, given this could yet be the subject of changes following consultation and examination, it can only be given limited weight.
11. Although the existing gymnasium use might currently employ only 4 part-time staff, its conversion to residential flats would result in the loss of an existing business, with a ground floor entrance and which forms part of an established mixed enterprise complex. The evidence provided does not persuade me that an alternative employment generating use to the current use has been fully explored.
12. The Council has previously allowed flats in the upper-floor parts of Millars Three. However, this proposal must be considered on its own merits and with regard to the balance between employment and non-employment uses on this site, recognising the synergies and mutual benefits provided by a concentration of mixed businesses and the advantages of a ground floor frontage along a main axis within this site. Having taken these factors into consideration I find that this proposal would conflict with the aims of LP Policy EDE2, in respect of preventing the loss of employment sites.

Effect on the local provision of sports and recreational facilities

13. LP Policy LRC1 resists the loss of sport and recreation facilities in order to promote health and well-being in the community, and this is consistent with aims set out in Section 8 of the Framework. Exceptions can be justified under this policy where there is suitable alternative provision in the locality, such that an existing sports and recreational was no longer needed and there was no viable demand for an alternative sort of facility.
14. The appellant's evidence persuades me that a number of modern fitness centres have emerged recently in this locality, with which the Millars One gymnasium is struggling to compete. Although there are representations from interested parties which contradict the appellant's view that this gymnasium is proving economically unviable, and failing to compete with more recent developments, the evidence persuades me that suitable alternative facilities are available in this area, which would exempt this proposal from being contrary to LP Policy LRC1. Only limited weight is given to emerging DLP policy CFLR8, although this sets out similar requirements to LP Policy LRC1, and so this would not alter my findings on this issue.

Living conditions for future occupants

15. The proposal is for flats and so it would not be expected for these units to have private outside space attached. However, there would be no outside space connected with the proposed flats, even of a shared nature. In the areas directly outside the front and rear walls of the Millars One building there are currently spaces that would allow vehicles to park right up to the doors and windows of the proposed ground-floor flats.
16. The flats would meet nationally-applied internal space standards and could be insulated against external noise. However, the lack of any communal outside

space connected with this accommodation, particularly given that those units proposed on the ground-floor might be suitable for small families, would not be compensated by access to nearby parks or recreation areas. This factor, coupled with the rather unsatisfactory situation whereby ground-floor flat windows would look out directly onto adjacent vehicle parking, persuades me that this scheme would not provide acceptable living conditions for its future occupants.

17. Consequently, this proposal would conflict with LP Policy ENV1 which seeks that development proposals respect the amenity of future occupants. This policy is consistent with the Framework principle that planning decisions always seek to secure a good standard of amenity for all existing and future occupants of land and buildings. Only limited weight is given to emerging DLP policy DES3 which would not alter my considerations over this issue.

Car parking

18. The proposed flats are located close to the town centre, the train station and bus services. Consequently, future occupiers would be relatively less dependent on the use of a private car to access employment, schools and other regularly required services and facilities, than residents of more remote locations.
19. I found the car parking provided in and around the Millars complex to be generally well used at the time of my mid-morning visit with limited spare capacity. Satisfactory access, parking and servicing arrangements comprise criterion 'c' in LP Policy ED2 over to allowing the loss of employment sites. The proposal shows five car parking spaces allocated for the 11 flats in the forecourt area at the front of Millars One. LP Policy TR7 applies the Council's parking standards, which for this proposal would require a maximum of 15 spaces, but allows some flexibility relating to the circumstances surrounding a proposal and its location. This flexibility was applied with the 24 flats permitted in Millars Three, which were allowed with 0.6 parking spaces per dwelling. This scheme would provide about 0.45 spaces per dwelling.
20. The County Council finds no material harm to the safety and convenience of other road users arising from this proposal. There are no means to secure this proposal as a car free development and, notwithstanding the sustainability of this location, future residents might well have a private car. However, the additional demand from this proposal on available parking would be offset by the removal of that generated by the current gymnasium use. On balance, and given the existing use and the location of this proposal, I find no material conflict with LP policies EDE2 c. and TR7 in respect of car parking provision. Only limited weight is given to emerging DLP policy TRA3 which would not alter my findings on this issue.

Other Matters

21. The Council requires appropriate provision for the additional demand this proposal would make on local infrastructure, services and facilities. The appellant agrees a contribution is reasonable but has not provided a completed obligation to this effect. Despite this, the absence of the contribution forms the Council's fifth reason for refusal.

22. The potential contribution would make only a very limited positive benefit in the overall assessment of this proposal and so this issue has had no material bearing on my decision and I have found no need to reach a firm conclusion on this matter.

Conclusion

23. The proposal would help increase the supply of housing in a location suitable in principle which would be accessible, by means other than private car, to a wide range of the occupiers' daily requirements. Whilst weight is given to this, the number of residential units is relatively small and so the benefit made to overall housing supply is moderate. This benefit would be insufficient to outweigh the significant harm arising from the loss of premises suitable for a small business generating employment, appropriate within the existing mix of activities on the Maltings site, and from the unacceptable living conditions provided for future occupiers. For these reasons, this proposal would not be supported by the Framework as comprising sustainable development and, having taken into account all other matters raised, I conclude that the appeal should be dismissed.

Jonathan Price

INSPECTOR