
Appeal Decision

Site visit made on 21 February 2017

by Stephen Hawkins MA MRTPI

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

Decision date: 7th March 2017

Appeal Ref: APP/D0121/W/16/3164889
21-25 Old Church Road, Clevedon BS21 6LU

- 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 Kerdene Ltd against the decision of North Somerset Council.
 - The application Ref 16/P/1813/F, dated 7 July 2016, was refused by notice dated 13 October 2016.
 - The development proposed is conversion of ground floor undercroft into self-contained residential flat.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of ground floor undercroft into self-contained residential flat at 21-25 Old Church Road, Clevedon BS21 6LU in accordance with the terms of the application, Ref 16/P/1813/F, dated 7 July 2016, subject to the conditions in the schedule at the end of this decision.

Main Issue

2. The main issue is whether the proposal would be at risk from flooding.

Reasons

3. The ground floor undercroft forms part of the rear wing of a three storey building. The undercroft opens onto a parking yard at the rear of the building, accessed from Old Church Road via a covered way. The rest of the ground floor of the building is mostly used as a restaurant. Former offices on the upper floors are in the process of being converted to a total of eight residential flats, following the receipt of prior approval from the Council¹. Several of the flats are now occupied. The building is situated in a secondary shopping area within the Clevedon Conservation Area (CA).

Flood risk

4. The appeal site is within Flood Zone 3a. The proposal would therefore be at a high risk of flooding, although the town's flood defences reduce the risk. The approach to managing flood risk set out at paragraph 100 of the National Planning Policy Framework (the Framework), is to avoid inappropriate development in areas at risk of flooding by directing development away from the areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

¹ References 13/P/1575/CUPA & 15/P/2240/CUPA.

5. According to paragraph 104 of the Framework, in areas of flood risk minor developments and most changes of use need to meet the requirement for a site-specific flood risk assessment (FRA) but should not be subject to the Sequential and Exception Tests required in respect of other forms of development. 'Minor development' in relation to flood risk is defined in the Planning Practice Guidance (PPG) section 'Planning and Flood Risk'² and includes alterations to the external appearance of a building that do not increase its size.
6. The undercroft is open on one elevation and I understand that it has been used for parking and storage. However, the undercroft is otherwise enclosed by substantial masonry walls on three sides and it has a solid floor. The enclosing walls support the first and second floors of the building. Consequently, when looked at as a whole, the undercroft forms an integral part of the building. The undercroft possesses little of the open characteristics of the adjacent parking yard.
7. In planning law, the change of use of part of a building falling within Use Class C3 (dwellinghouses) to use as a separate dwelling would amount to a material change of use, even though the new dwelling would be within the same Use Class. Consequently, even if the undercroft formed part of the authorised parking area for the approved flats, that alone would not prevent the proposal from constituting a material change of use. The building operations associated with the proposal consist principally of infilling the ground floor opening with a wall, insertion of door and window openings in another elevation, internal works and installing services. The scale of these operations would therefore be limited. Overall and as a matter of fact and degree, the operations would not be significantly greater than that which might ordinarily be regarded as being ancillary to a material change of use.
8. Further, the operations would not increase the overall volume or footprint of the existing built form and they would not have the effect of enclosing space currently unoccupied by a building. Therefore, the operations would not be so extensive that they could be described as an enlargement of the building. The operations would be more akin to alterations to its external appearance.
9. For the above reasons, I find that it would not be unreasonable to describe the proposal as a material change of use of part of the building. Moreover, the scale of the associated operations would not exceed that which could be described as minor development in the PPG. Therefore, the Framework does not require the proposal to be subject to the Sequential and Exception Tests.
10. A detailed assessment of the flood risk arising from the proposal has been undertaken in the submitted site-specific FRA. In summary, this concludes that the proposal would not be at an unacceptable risk of flooding having regard to the defended nature of the town and that mitigation could be put in place in relation to the residual risk. The Council did not object to the conclusions of the FRA and the Environment Agency (EA) concluded that the proposal would not exacerbate the flood risk to other local properties. I have found no reason to disagree with those conclusions.
11. The majority of the rest of the evidence of both main parties focuses on whether the Exception Test has been satisfied in the context of, amongst other

² Paragraph: 046 Reference ID: 7-046-20140306

matters weighing in favour of the proposal, an acknowledged shortfall in the Council's 5 year supply of housing land. I have also been referred to an appeal decision in respect of a new dwelling elsewhere in the town, which was dismissed as it did not provide wider sustainability benefits outweighing the flood risk. However, in view of my findings above it is not necessary to consider these matters further.

12. Consequently, the proposal would accord with Policy CS3 of the adopted North Somerset Core Strategy, as it would be safe from flooding without increasing flood risk elsewhere. Moreover, the proposal would accord with Policy DM1 of the adopted Development Management Policies-Sites and Policies Plan Part 1, as the vulnerability to flooding has been considered.

Other Matters

13. The external alterations associated with the proposal would be of a similar design to the rest of the rear wing of the building. Similar wall materials would be used. Being located at the rear, there would be limited public views of the proposal. Therefore, the proposal would preserve the character and appearance of the CA.
14. One allocated parking space is shown on the submitted plans. The appeal site is in an accessible location, the town centre services and facilities as well as links to public transport being within a short, level walking distance. Therefore, some of the future occupiers need not be dependent on having access to a car. Consequently, the proposal would provide adequate off-street parking. The Council did not object to the proposal on grounds of inadequate parking and I have not found any reason to disagree with their assessment.

Conditions

15. In addition to the standard commencement condition, I have imposed a condition specifying the approved plans in the interests of certainty. I have imposed a condition requiring the external wall materials to match those of the existing building in order that a harmonious appearance is achieved, to preserve the character and appearance of the CA. I have also imposed a condition to ensure adequate off-street parking is provided and maintained, in the interests of highway safety. Further, I have imposed a condition requiring the prior approval and implementation of a Flood Warning Evacuation Plan, in the interests of minimising the risks arising from flooding. After seeking the views of both main parties, I have also imposed a condition requiring the prior approval and subsequent implementation of a scheme to ensure that the proposed flat is resilient to flooding.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Stephen Hawkins

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: 1725B-P01, 1725B-P03 Rev A, 1725B-P04 Rev B, 1725B-P05 Rev B, 1725B-P06 Rev B.
- 3) The external wall materials to be used in the development hereby approved shall match the colour and appearance of the adjacent surfaces of the existing building.
- 4) Before the dwelling hereby approved is occupied, the parking space shown on drawing no 1752B-P04 Rev B shall be provided in accordance with that plan. Thereafter, the parking space shall be retained free from obstruction and shall not be used other than for the parking of vehicles in connection with the approved dwelling.
- 5) Before the dwelling hereby approved is occupied, a Flood Warning Evacuation Plan (including details of a local safe refuge in the event of a flood) shall be submitted to and approved by in writing by the Local Planning Authority and implemented in full. Thereafter, the approved Flood Warning Evacuation Plan shall be retained in accordance with the approved details.
- 6) The dwelling hereby approved shall not be occupied until a scheme to provide flood resilient design and construction methods has been submitted to and approved in writing by the Local Planning Authority and the approved scheme has been fully implemented.