The Planning Inspectorate

Appeal Decision

Site visit made on 15 February 2017

by Claire Victory BA (Hons) BPl MRTPI

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

Decision date: 16 May 2017

Appeal Ref: APP/M1710/W/16/3159413
Froyle Place, Ryebridge Lane, Upper Froyle, Alton GU34 4LA

- 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 Froyle Park Estates Ltd. against the decision of East Hampshire District Council.
- The application Ref 55541/004, dated 13 November 2015, was refused by notice dated 7 April 2016.
- The development proposed is the demolition of existing flat roofed workshop and erection of 3 cottages with associated car parking.

Decision

1. The appeal is allowed and planning permission is granted for the demolition of existing flat roofed workshop and erection of 3 cottages with associated car parking at Froyle Place, Ryebridge Lane, Upper Froyle, Alton GU34 4LA in accordance with the terms of the application, Ref 55541/004, dated 13 November 2015 and subject to the conditions in the attached schedule.

Background and Main Issues

2. The Council adopted a Community Infrastructure Levy the day after the application was determined. Subsequently the Council has confirmed that it no seeks to contest the third reason for refusal, relating to infrastructure and affordable housing contributions. The main issues in the appeal are therefore:

    - the effect of the proposal on the living conditions of future occupiers with regard to noise and disturbance, and
    - whether the development would make adequate provision for private amenity space for future occupants.

Reasons

Living conditions – noise and disturbance

3. The appeal site forms part of Froyle Place, the former Trelloar College and grounds located within the village of Upper Froyle. Planning permission was granted for change of use of Froyle Park to a country club hotel with residential flats on the first and second floor. Jephson House, a Grade II* listed building to the south west, has been converted into 5 dwellings. New dwellings have also been constructed within the estate and public open space laid out.

4. The appeal site comprises a courtyard enclosed on three sides by brick and stone walls and containing three buildings, aligned against the three sides with

a set of gates in the south east corner of the site that provide access to the adjacent car park and entrance to the hotel. Ryebridge Lane is located to the north west of the site, and Jephson House and an electricity sub-station to the south west. The appeal buildings have been used as workshop and storage in association with the adjacent hotel and there are gates along the site boundary that provide access to that property. The proposal would involve the demolition of the existing buildings and the erection of 2 two bedroom dwellings and 1 three bedroom dwelling.

5. The Council is concerned with the potential impact of noise emissions from the hotel on the living conditions of future occupiers of these dwellings. There would be some comings and goings from the hotel as people arrive and leave. However, no windows are proposed to face towards the hotel entrance and car park, the existing access that forms part of the site boundary is to be closed off, and the dwellings would face into the courtyard in a similar layout to the existing structures. The proposed dwellings would be some distance from the function room at the rear of the hotel, and would not face it directly. I also note that residential units within the first and second floor of Froyle Park were permitted as part of the development as a hotel, and planning permission has been granted for an additional car park further away from the appeal site.

6. The National Planning Policy Framework (the Framework) states that planning decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development, and should mitigate and reduce to a minimum other adverse impacts, including through the use of conditions. A series of conditions were attached to the original planning permission for change of use to a country club hotel[1] relating to the operation of the hotel, including for the control and mitigation of noise emissions, and condition 27 required a Noise Management Plan to be submitted to and approved in writing by the local planning authority.

7. The Council subsequently permitted a variation of condition 23 of the above planning permission[2]. This required amplified music from the hotel to be no louder than background noise levels, rather than lower than background levels as specified in the original condition. In determining the application, the Council's Environmental Health team carried out monitoring at the boundary of the nearest noise sensitive dwelling and at first floor level. Whilst noise was audible, it was not considered to be appreciably above the background noise level without music as measured by the Council, and thus would be in compliance with condition 23 as varied. Consequently there are a comprehensive range of measures in place to avoid, mitigate and manage noise emissions emanating from Froyle Park in association with the permitted use as a hotel.

8. Whilst the Council is concerned that the agreed Noise Management Plan pre-dated a change in management, and measures proposed by the appellant in a revised Noise Management Plan submitted with the variation of condition application[3] are voluntary, any breach of condition 27 can still be subject to enforcement action, and the conditions attached to the planning permission would apply to any future operator of the premises.

[1] Ref 20107/061 – conditions 21, 22, 23, 24, 25, 26, 28, 29, 30, 31, 32, 33 and 34
[2] Variation of Condition application Ref 20197/0091/VOC
[3] Revised Noise Management Plan dated January 2016

9. I have also had regard to a dismissed appeal at Groomes Farm[4] where the Inspector found that the activities of guests outside the venue late at night would be very difficult to control and likely to cause unacceptable nuisance, taking into account the rural location, where the ambient noise level was low. However, that appeal related to the use of an additional building within a hotel complex being used for events including weddings and corporate functions. In the present appeal permission has been granted for the nearby hotel, subject to the aforementioned conditions, and the appellant maintains the operation of the hotel is as approved.

10. Further to the above, an addendum to the committee report[5] into the variation of condition 27 noted that investigations into alleged breached of planning control had taken place and on the basis of available information, the council 'is not satisfied that the use of the hotel as a wedding venue has displaced the authorised hotel use.' Whilst the Council's appeal statement notes the use of Froyle Park as a wedding venue is not permitted and is being investigated as part of separate 'compliance/enforcement work', it is not the role of this appeal to draw any conclusions in relation to such investigations and it is reasonable to assume that the business will run in accordance with the conditions imposed on the planning permission. The Council is open to take enforcement action against any future breach of planning control.

11. Taking all of the above into account, I conclude that the proposal would not cause material harm to the living conditions of future occupants, with regard to noise and disturbance, and thus there would be no conflict with Policy CP27 of the East Hampshire District Local Plan: Joint Core Strategy (JCS) (2014). This states that developments sensitive to pollution will only be permitted if they are appropriately separated and designed to remove the risk of unacceptable impacts.

Living conditions – private amenity space

12. The Council has no standards for open space, and so each proposal falls to be assessed on its own merits. Units 1 and 2 would each have private amenity space to the rear, accessed from the living rooms, and there would also be some private amenity space to the front. Unit 3 would only have amenity space to the front, and although the garden space serving Unit 1 would be somewhat narrow, it would be greater in length than the dwelling itself. Nevertheless, each property would have sufficient private amenity space for activities such as sitting out or hanging out washing. The occupiers of these dwellings would also benefit from access to public open space and a children's play space within a few hundred metres of the appeal site. I therefore conclude that the development would provide adequate private amenity space for future occupiers.

Other Matters

13. There are concerns that views of nearby St Mary's Church would be blocked by the proposed development but the roof height of Units 2 and 3 would not be significantly greater than that of the existing buildings and although Unit 1

[4] APP/M1710/A/12/2186782
[5] Supplementary Matters to be considered as part of Planning Officer's Report on planning applications dated 7 July 2016

would be two storeys in height it would not project beyond the frontage of Jephson House, and thus views of the church from the south west across the appeal site would not be noticeably obscured by the development.

14. Whilst permission has been granted to provide additional hotel bed spaces within the appeal site these have not been implemented. There have also been concerns relating to the adequacy of car parking for the hotel but as noted above planning permission has been granted for additional car parking spaces. As such I have given these matters little weight in reaching my decision.

Conditions

15. I have found that the development would be acceptable, subject to certain conditions. I have specified the approved plans for certainty, and shall require details of external materials to be used in the elevations, roof, and details of proposed windows and roof lights, meter boxes, flues and metal ducting to safeguard the character and appearance of the surrounding area. I shall also require the appellant to make good any exposed brick work to Jephson House as a result of demolition of the garages on the appeal site, in order to preserve the special interest of the listed building.

16. A scheme to demonstrate energy savings of no more than 10% above building regulations is required to be submitted and approved in order to ensure the dwellings are energy efficient in accordance with JCS policy CP24 Sustainable Construction.

17. Details of foul and surface water drainage are required to reduce surface water run-off within and outside the site, including to the highway. A condition requiring contaminated land investigations is also necessary in view of the proposed residential use, taking a precautionary approach as the site has been previously developed.

18. Finally, due to the particular site circumstances of the appeal, including the proximity to listed buildings and the need to ensure adequate private amenity space for occupiers of the dwellings, I concur with the Council that restricting permitted development rights is justified in this instance, and have imposed a condition to that effect.

Conclusion

19. For the reasons set out above I conclude that the appeal should be allowed.

Claire Victory

INSPECTOR

Schedule of Conditions

1) The development hereby permitted shall be begun before the expiration of three years from the date of this planning permission.

2) The development hereby permitted shall be carried out in accordance with the following approved plans and particulars: Drawing 13 G - Outbuildings Proposed Site Plan and Block Plans; Drawing 14 G - Proposed Outbuildings Floor Plans; Drawing 15 H - Proposed Outbuildings Cottage Elevations; Drawing 16 H - Proposed Outbuildings Street Scene, Elevations, Bin and Cycle Store Plans and Elevations; Drawing 19 C - Existing Site Plan; Drawing 20 - Proposed Outbuildings Existing Outbuildings Floor Plans and Elevations.

3) Notwithstanding any indication of materials that may have been given in the application or in the absence of such information, no development shall commence on site until samples / details including manufacturers details of all the materials to be used for external facing and roofing for the development hereby approved have been submitted to, and approved in writing by, the local planning authority. The development works shall be carried out in accordance with the approved details.

4) No development shall commence on site until details of a scheme for foul and surface water drainage has been submitted to, and approved in writing by the local planning authority. Such details should include provision for all surface water drainage from parking areas and areas of hardstanding to prevent surface water from discharging onto the highway and should be based on site investigation and percolation tests. The development shall be carried out in accordance with the approved details before any part of the development is first occupied and shall be retained thereafter.

5) Before use of the development is commenced, provision for car parking and vehicle turning on site together with cycle parking shall have been made within the site in accordance with the approved plans and shall be retained thereafter.

6) Notwithstanding the approved plans, the development hereby permitted shall not be commenced until detailed drawings of the windows and doors have been submitted to, and approved in writing by the local planning authority. The details to comprise: 1:20 elevation and plan; 1:5 section and full size glazing bar detail; the position of the window within the opening (depth of reveal) and method of fixing the glazing; the materials used, method of opening and finishes. The works shall be carried out in full accordance with such approval and be retained thereafter.

7) No work shall start on site until manufacturers details of the new roof lights have been submitted to and approved by the local planning authority, specifying the precise model with a section through the plane of the roof to show how it sits within the roof profile. All details shall be approved in writing, carried out in full accordance with the approved details and shall be retained thereafter.

8) Any parts of the adjacent building exposed by the demolition work for which consent/permission has been granted, shall as part of the contract be made

good to the satisfaction of the local planning authority prior to the completion of the project.

9) Prior to the commencement of development details of the siting and design of any proposed external meter boxes/metal ducting/flues shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

10) No development shall commence on site until a scheme has been submitted to, and agreed in writing by, the local planning authority to demonstrate that the built development hereby permitted incorporates measures that provide energy savings of no less than 10% above Building Regulations in force at the time the development is to be constructed. Before any part of the development is first occupied a verification report and completion certificate shall be submitted in writing to the local planning authority confirming that the built development hereby permitted has been constructed in accordance with the approved scheme. The developer shall nominate a competent person for the purpose of assessing and providing the above required report and certificate to confirm that the completed works incorporate such measures as to provide the required energy savings. The energy saving works set out in the above report shall thereafter be maintained so that the required energy saving is sustained at the certified level for the lifetime of the development.

11) All development shall be stopped immediately in the event that contamination not previously identified is found to be present on the development site and details of the contamination shall be reported immediately in writing to the local planning authority. Development shall not re-start on site until the following details have been submitted to and approved in writing by the local planning authority: a scheme outlining a site investigation and risk assessments designed to assess the nature and extent of any contamination on the site; a written report of the findings which includes, a description of the extent, scale and nature of contamination, an assessment of all potential risks to known receptors, an update of the conceptual site model (devised in the desktop study), identification of all pollutant linkages and unless otherwise agreed in writing by the local planning authority and identified as unnecessary in the written report, an appraisal of remediation options and proposal of the preferred option(s) identified as appropriate for the type of contamination found on site; and a detailed remediation scheme designed to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment. The scheme should include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works, site management procedures and a verification plan outlining details of the data to be collected in order to demonstrate the completion of the remediation works and any arrangements for the continued monitoring of identified pollutant linkages. Before any part of the development is occupied or used a verification report demonstrating the effectiveness of the remediation works carried out and a completion certificate confirming that the approved remediation scheme has been implemented in full shall both have been submitted to and approved in writing by the local planning authority. The above site works, details and certification submitted shall be in accordance with the approved scheme and undertaken by a competent

person in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR 11'.

12) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (or any Order revoking, re-enacting or modifying that Order) no extensions and outbuildings otherwise permitted under Schedule 2, Part 1, Classes A, B, C and D and Class A of Part 2 of said Order shall be carried out on the dwelling houses or within their curtilages.