
Appeal Decisions

Site visits made on 6 and 7 April 2017

by Neil Pope BA (Hons) MRTPI

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

Decision date: 1 June 2017

Appeal A Ref: APP/F0114/W/16/3166191
90B, Walcot Street, Bath, BA1 5BG.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Andrew Page of Vibrant Leisure Ltd against Bath & North East Somerset Council.
 - The application Ref. 16/04057/FUL, is dated 12 August 2016.
 - The development proposed is the change of use of part of existing premises from nightclub to hotel use, ground floor to provide 5 bedrooms, lower ground floor to provide 3 bedrooms and ancillary facilities.
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Appeal B Ref: APP/F0114/Y/16/3166194
90B, Walcot Street, Bath, BA1 5BG.

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
 - The appeal is made by Mr Andrew Page of Vibrant Leisure Ltd against Bath & North East Somerset Council.
 - The application Ref. 16/04218/LBA, is dated 23 August 2016.
 - The works proposed are the change of use of part of existing premises from nightclub to hotel use.
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Decisions

1. Appeal A is dismissed and appeal B is allowed.
2. Planning permission is refused for the change of use of part of existing premises from nightclub to hotel use, ground floor to provide 5 bedrooms, lower ground floor to provide 3 bedrooms and ancillary facilities, but listed building consent is granted for the change of use of part of existing premises from nightclub to hotel use at 90B, Walcot Street, Bath, BA1 5BG. Consent is granted in accordance with the terms of application Ref. 16/04218/LBA, dated 23 August 2016, subject to the conditions in the Schedule below.

Preliminary Matters

3. The appeal site comprises part of a grade II listed building (92 Walcot Street) within the Bath Conservation Area (BCA) and the Bath World Heritage Site (WHS). I have taken into account the provisions of sections 16(2), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
 4. The Council has informed me that it considers the proposed works to the listed building (appeal B) are acceptable subject to suggested conditions. It has also
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informed me that the scheme advanced under appeal A would result in unacceptable impacts on the amenities (noise and disturbance) of hotel guests.

Main Issues

5. The two main issues are: firstly, the impact upon the significance of designated heritage assets (both appeals) and; secondly, whether there would be adequate amenity for future hotel guests, having particular regard to noise disturbance (appeal A only).

Reasons

Heritage Assets (Both appeals)

6. 92 Walcot Street is the former Red House Bakery, dated 1903, by Alfred J Taylor. The significance of this listed building is derived primarily from its architectural qualities, including the limestone and rubblestone walls, double Roman tile roof and stone mullioned and transomed windows. The appeal premises comprise a c.1950s 2 storey concrete frame/block walled extension. It does not make any positive contribution to the significance of this listed building or to the special architectural or historic qualities of the BCA and is of no cultural merit in the context of the Outstanding Universal Value of the WHS.
7. The proposed works would include the erection of internal partitions and some new and replacement windows. The two windows proposed on the eastern elevation would be in areas of former window openings that have been blocked in. These new openings would be designed as skewed oriel bay windows with glazing set at an angle and louver blades to limit overlooking with neighbouring properties. The proposed works would not have any adverse effect upon the significance of the listed building or BCA and would not harm the integrity of the WHS. I concur with the Council that appropriate conditions could be used to ensure the works safeguard the heritage interest of these designated assets. I also note that the nightclub business has waned in recent years. The proposal could help strengthen the local economy and provide additional hotel bedrooms within the City in accordance with the Bath Spatial Strategy.
8. I conclude on the first main issue that the proposal would not harm the significance of designated heritage assets. Listed building consent should therefore be granted in respect of appeal B.

Amenity of Hotel Guests (Appeal A only)

9. I understand that the intention would be to allow hotel residents to access the remainder of the nightclub for bars and breakfast. Some partitioning details have been submitted in respect of the proposed new internal walls and appear to show that a sound insulation of 54dB could be achieved. I also note that in the past, when a snooker hall existed in part of the building, noise disturbance from the nightclub use did not appear to be an issue for those engaged in this sporting activity.
10. However, with the nightclub continuing to operate from within the same building where some people would be trying to sleep, it is very far from certain that those staying in the hotel would not experience unacceptable noise disturbance from the lively activities that would be taking place late at night/early morning. If hotel guests chose not to use the nightclub when it was in use or retired to their rooms before this neighbouring activity ceased

operating there would be a considerable risk that they could experience significant and unacceptable noise disturbance.

11. It is not evident that the nightclub would be ancillary to the proposed hotel and there would be nothing to prevent these two uses operating independently of one another. The likely risk of noise disturbance and complaints being made to the Council could result in the nightclub having to curtail activities to the extent that it became unviable and/or render the hotel an undesirable place to stay. This would undermine the appellant's economic arguments and could result in part or all of the listed building becoming unoccupied.
12. The Noise Policy Statement for England (2010) aims to promote good health and a good quality of life. I concur with the Council's Environmental Protection Officer that in the absence of any acoustic report to demonstrate that noise from the nightclub could be appropriately mitigated then there is a significant risk that hotel guests would not have an adequate standard of amenity during their stay. This would conflict with the provisions of policy D.2(f) of the Bath and North East Somerset Local Plan (2007) and a core principle of the National Planning Policy Framework (the Framework) which is aimed at securing a good standard of amenity for future occupants of buildings.
13. I conclude on this main issue that, on the basis of the evidence before me, the proposal would be unlikely to provide adequate amenity for future hotel guests.

Other Matters

14. I concur with both main parties that the proposed windows would be sited and designed to avoid any significant overlooking of neighbouring properties. I also concur with the Council that given the existing use of the site, the convenient access to public transport services and existing parking restrictions in this part of the City centre, the proposal would be unlikely to result in any harmful increase in traffic or demand for car parking. Moreover, given the noise and disturbance that could be expected from the existing use the proposal would be unlikely to result in any serious noise disturbance for neighbouring residents.

Conditions (appeal B)

15. In addition to a condition limiting the duration of a consent to three years, and in the interests of certainty, a condition would be necessary specifying the approved plans. To safeguard the special architectural qualities of the listed building and the character and appearance of the BCA, conditions would be necessary requiring the submission of further details regarding the proposed windows and materials to be used in the external finish.

Overall Conclusion

16. With regards to appeal A, my findings in respect of the first main issue do not outweigh the likely adverse impact that I have found in respect of the second main issue. I also find that the proposal would conflict with the provisions of the development plan and the Framework when each is read as a whole.
17. I conclude that listed building consent should be granted but planning permission should be withheld. Appeal A therefore fails and appeal B succeeds.

Neil Pope

Inspector

SCHEDULE OF CONDITIONS (APPEAL B)

1. The works hereby permitted shall begin no later than three years from the date of this decision.
2. The works shall be undertaken in accordance with the details shown on the following plans: drawing ref. 515/ LP/1 (site location); drawing ref. 515/sk/1 (proposed ground floor plan); drawing ref. 515/sk/2 (proposed lower ground floor plan); drawing ref. 515/sk/3 (proposed elevations); drawing ref. 515/sk/4 (proposed elevations) and; drawing ref. 515/sk/5 (louver blade details).
3. Notwithstanding the details shown on the approved plans or other details submitted with the application, no works shall commence on the installation of the windows until 1:20 scale drawings showing the proposed window detailing, including vertical and horizontal sections have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.
4. No works to the external envelope of the building shall commence until a schedule of materials and finishes and samples of the materials to be used in the external surfaces, including the oriel windows, have been submitted to and approved in writing by the Local Planning Authority. The works shall be carried out in accordance with the approved details.