

Appeal Decision

Site visit made on 22 May 2017

by D. M. Young BSc (Hons) MA MRTPI MIHE

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

Decision date: 22nd June 2017

Appeal Ref: APP/U1430//W/17/3166482

Belle Hill Hall, Chapel Path, Bexhill TN40 2AA.

- 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 1st Friends Day Nursery Ltd against the decision of Rother District Council.
 - The application Ref RR/2016/2410/P, dated 12 September 2016, was refused by notice dated 7 November 2016.
 - The development proposed is the conversion of nursery building to one 1 bed flat, one 2 bed flat and one 3 bed flat.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of nursery building to one 1 bed flat, one 2 bed flat and one 3 bed flat at Belle Hill Hall, Chapel Path, Bexhill TN40 2AA in accordance with the terms of the application, Ref RR/2016/2410/P , dated 12 September 2016, subject to the following 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: 2016_40 PL03, 2016_40 PL04, 2016_40 PL05 and 2016_40 PL06.

Main Issue

2. The main issue is whether the proposal would result in the unacceptable loss of a community facility for which there is no alternative provision.

Reasons

3. The appeal site is a former Pentecostal chapel building currently used as a children's day nursery. It is located within a wider residential area albeit immediately adjacent to a dual carriageway. The appellant argues that the business has struggled financially in recent years due to reduced demand and hence the decision has been taken, following a 4 year marketing exercise, to seek the conversion of the building into residential accommodation.
 4. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 explain that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Policy CO1 (iii) of the
-

"Rother Local Plan: Core Strategy 2014" (the LP) states that community facilities to meet local needs will be achieved by:

"Not permitting development proposals that result in the loss of sites or premises currently or last used for community purposes unless:

(a) alternative provision of the equivalent or better quality is available in the local area or will be provided and made available prior to the commencement or redevelopment of the proposed scheme; or

(b) it can be demonstrated there is no reasonable prospect of retention for the current use and that no other community use of the site is suitable or viable".

5. Policy CO1 reflects advice in paragraph 70 of the *"National Planning Policy Framework"* (the Framework) which seeks to *"guard against the unnecessary loss of valued facilities and services, particularly where this would reduce a community's ability to meet its day-to-day needs"*.
6. There is no dispute that the building is used for community purposes. The issue is therefore whether the proposal would comply with either criterion (a) or (b) of Policy CO1. The appellant's statement includes a comprehensive list of other nurseries in the local area. On this basis, it is evident that the area is well served with a number of nurseries within convenient walking distance of the appeal site. As to whether there is spare capacity at these establishments, the evidence is unclear. There is certainly nothing before me from the Council to suggest that any of these establishments are already full. Therefore, whilst I accept that some might be operating near to capacity, on the balance of probabilities, I find it unlikely that between them they would be unable to accommodate the children that would be displaced from the appeal premises. In coming to that view, it is germane that the appellant's business has seen falling demand in recent years.
7. Overall I find that alternative provision in the local area already exists and the community's ability to meet its day-to-day needs would not be compromised. The development thereby accords with Policy CO1 (iii) (a) of the LP as well as Paragraph 70 of the Framework. Having reached that conclusion, it is not necessary for me to go on to consider whether the proposal would conflict with part (iii) (b) of Policy CO1.

Conclusion

8. In addition to the standard time limit condition, I have also imposed a condition specifying the approved plans as this provides certainty. For the reasons given above and taking into account of all other matters raised, I conclude that the appeal should succeed.

D. M. Young

Inspector