
Appeal Decision

Site visit made on 18 July 2017

by Simon N Hand MA

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

Decision date: 26 July 2017

Appeal Ref: APP/D1780/C/16/3165630

Land at Post Office, Shirley Avenue, Southampton, SO15 5RF

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Jasbir Mandair against an enforcement notice issued by Southampton City Council.
 - The enforcement notice was issued on 5 December 2016.
 - The breach of planning control as alleged in the notice is without planning permission, change of use of the Land from office/storage ancillary to Post office (A1 Use) to a separate, self-contained residential accommodation (C3 Use).
 - The requirements of the notice are 1. Cease the use of the Post Office as a self-contained unit of residential accommodation; 2. Remove all fixtures and fittings enabling the residential use; 3. Reinstate the use of the land back to an office/storage use ancillary to the Post Office (A1).
 - The period for compliance with the requirements is 3 months.
 - The appeal is proceeding on the grounds set out in section 174(2) (a) and (g) of the Town and Country Planning Act 1990 as amended.
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Decision

1. The enforcement notice is varied by the deletion of "three months" from section 6 "The Time For Compliance" and its replacement with "6 months". Subject to this variation the appeal is dismissed and the enforcement notice is upheld, and planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Application for costs

2. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

The Appeal on Ground (a)

3. The reasons for issuing the notice can be summarised as the creation of a cramped flat with no private garden space, poor outlook and no room for refuse and cycle storage. There would also need to have been a s106 agreement to pay for the Solent Disturbance Mitigation Project (SDMP). These then are the main issues in the appeal.
4. Once the appeal was underway the appellant provided a plan showing that a private area of land to the side of the building would be turned into off-street car parking for 2 vehicles, parked in tandem, and a small garden area with cycle and refuse storage. I saw on my site visit this area of private land was

- currently laid to tarmac and presumably could be used as parking. The occupiers of the flat had strung a line across it and were using it to dry clothes.
5. The opposite wall of the private space is made up of a shop with a corner window, but this would look onto the proposed car parking area. I agree with the Council that if amenity space can be provided then it ought to be and the property would then conform to the Residential Design Guide. The amenity space, storage and parking could all be secured by condition, however, I note there is no direct access to the amenity space from the flat; the occupiers would have to use the front door and go along the pavement and presumably in through a locked gate which would hardly be convenient.
 6. The inside of the flat was well furnished and the rooms seemed adequately sized for a three bed flat, in particular the lounge and diner were spacious with high ceilings. The windows were presumably a legacy of the former use as a post office and were large, letting in a considerable amount of light. However, the bottom half of the windows in the lounge/kitchen/diner were obscure glazed and the bottom third of those in the bedrooms were too. At present the outlook is mostly onto the pavement or the tarmac side area and so the privacy of the occupiers is secured by the obscured glass at the expense of outlook. This seems acceptable to me in the bedroom but not so in the living area. However, two large windows in the kitchen and lounge would look over the amenity space once it is secured and these need not then be obscure glazed.
 7. The appellant argues that a payment is not required for the SDMP as the building is already in existence and the impact of one flat would be marginal. However, the Council have an up to date policy that requires all new housing development to contribute towards the SDMP and they have shown, through a number of decision letters, that this has been supported on appeal. The fact that the building exists is irrelevant as its conversion adds another dwelling to the area. The appellant says he knows of other appeals where the SDMP has not been required, but no evidence has been provided to support this argument. There is no reason therefore why a contribution towards the SDMP should not be made.

Conclusion

8. Consequently, I consider the flat could be made to be acceptable by the provision of the proposed amenity space, storage for cycles and bins and off-street car parking as well as removal of the obscure glazing from some of the windows. However, I do not consider this can be achieved by way of conditions because no satisfactory access to the amenity space has been proposed. Although it seems one could be provided from either the bedroom or the living room there has been no suggestion to this effect and it is beyond my powers to require it without the certainty that the appellant is prepared to provide an access and it would be structurally possible. I also consider that a payment should be made for the SDMP and no means of securing that has been proposed. I shall thus dismiss the appeal and uphold the notice.

The Appeal on Ground (g)

9. The appellant argues 6 months would be fairer to allow the tenants to be rehoused. I agree that an extended period of 6 months would be acceptable but more to enable a satisfactory planning permission to be sought for the

conversion, which it seems to me, should be possible. I shall allow the appeal on ground (g) and extend the compliance period to 6 months.

Simon Hand

Inspector