
Appeal Decision

Site visit made on 18 October 2017

by J Gilbert MA (Hons) MTP MRTPI

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

Decision date: 26th October 2017

Appeal Ref: APP/B0230/W/17/3180042

Suite 3 & 4, Cotton Mill Mews, Kingham Way, Reginald Street, Luton, Bedfordshire LU2 7RG.

- 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 SJ and LM Wood against the decision of Luton Council.
 - The application Ref 16/01491/FUL, dated 17 October 2016, was refused by notice dated 13 January 2017.
 - The development proposed is described as “retrospective change of use from Class B1A (office) to C3 (residential) to form 4 apartments at first floor level.”
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The decision notice refers to the application having been submitted on 18 August 2016. However, the application form is dated 17 October 2016. I have used the date on the application form in the heading above.
3. I observed on site that the change of use has taken place and that all 4 residential units are in use. I have dealt with the appeal on this basis.

Main Issue

4. The main issue in this appeal is the adequacy of living conditions for occupiers of the 4 residential units at first floor level at the appeal site, with particular reference to internal space, outlook, light, and external amenity space.

Reasons

5. The appeal site is situated on the first floor of a three-storey building which forms part of an industrial estate located between terraced residential streets in High Town to the north of Luton town centre. The building at Cotton Mill Mews is one of a number of buildings within the Kingham Way industrial estate, which provides space for B1, B2 and B8 uses. Cotton Mill Mews has storage and warehousing on the ground floor and offices at second floor level. The 4 residential units now located at first floor level are the subject of this appeal. The first floor was converted to residential use in 2015 and formerly comprised 2 office suites (Suites 3 and 4).
6. The first floor residential units are located to either side of the central stairwell and are accessed via a long corridor served by large windows which have a

- mixture of clear and obscure glazing. The laundry room serving the 4 units is accessed from the first floor landing.
7. Taking the units in turn, unit 3A has 29m² floorspace comprising one bedroom, living area, kitchen, shower room and a storage cupboard. The bedroom for unit 3A is particularly narrow and cramped at approximately 1.7m wide, which allows for only very limited circulation space adjacent to the double bed. Unit 3B is a 35m² two-bedroom unit with a kitchen/living area and shower room. Unit 4A has a floorspace of 33m² and includes a kitchen/living area and a shower room. Although unit 4A is shown on the plan marked "Ref. no 6 First Floor Plan as Existing" as being a one-bedroom unit with a study/store, the unit is currently being used as a two-bedroom unit. Lastly, unit 4B is a 44m² two-bedroom unit, with a kitchen/living area, shower room and storage cupboard.
 8. The Government issued a Written Ministerial Statement on 25 March 2015 setting out technical standards for new dwellings, including internal space standards. These internal space standards were drawn up to allow for standard furniture sizes and circulation space within rooms. The *Technical housing standards - nationally described space standard* (March 2015) (NDSS) states that such standards can only be applied where there is a relevant current local plan policy. Although the Council proposes to include the NDSS in the emerging Luton Local Plan, the Council has confirmed that the adopted Luton Local Plan 2001 -2011 (2006) (the Local Plan) does not make reference to specific internal space standards.
 9. Consequently, the NDSS cannot be applied on a mandatory basis, although the Council has used it as guidance and the appellant has not disputed its use. However, a core planning principle of the National Planning Policy Framework (the Framework) is to ensure a good standard of living conditions for all existing and future occupants of development and this principle is reflected in Policy LP1 in the Local Plan. The amount of internal living space provided is an important factor in determining whether a good standard of living conditions is reached. Using the NDSS for guidance only, the minimum floorspace standard for one-bedroom units ranges between 37m² and 50m² dependent on whether the unit accommodates one person or 2 people, while two-bedroom units are expected to be at least 61m² for 3 people. None of the residential units meet the minimum gross floorspace for their respective number of bedrooms even if unit 4A is considered as a one-bedroom unit. In my view, the development falls significantly short with regard to internal space, with rooms and units which are undoubtedly small and cramped. For this reason, I find that the development would be unacceptably harmful in relation to the provision of internal space.
 10. Turning to the Council's concerns about outlook and light, the first floor windows of Cotton Mill Mews are distributed consistently along 3 of the building's elevations. There are no windows at first floor level adjacent to The White House to the south-west of the appeal site. The windows on the 3 elevations provide some outlook and light for the 4 residential units and to the corridor along the back of the building. However, due to the poor relationship between the windows and the residential units they serve, some of the windows have partition walls positioned approximately level with the central vertical bar between window panes. The juxtaposition of small rooms and partitioned windows results in a number of oppressively dark rooms despite relatively good floor to ceiling heights within the units and the overall size of the windows.

11. The narrow double bedroom of unit 3A has the bedroom door opening in front of the partitioned window, reducing the level of light entering the room. Meanwhile, the study/store of unit 4A is windowless, with limited outlook and limited light penetrating from the front of the building due to the layout of the rooms and the partitioning of the window. While it is marked as a study/store, it was being used as a bedroom during my site visit and the Council's site visit on a separate occasion. The living areas in units 3B and 4A are positioned some distance from the windows serving the respective units, while Unit 4B has obscure glazed windows to the kitchen/living area. This lack of light and outlook serves to reinforce the cramped and oppressive nature of the development, requires greater use of artificial lighting, and causes harm to living conditions of occupiers of the units.
12. Some of the windows on the rear elevation of the building are obscure glazed or partially obscure glazed. Although I note that the appellant has recently sought to replace some of the obscure glazing with clear glass, this does not improve the living conditions of occupiers to such an extent to mitigate the harm caused by the poor layout of the units relative to the building's windows. I note that the Council has raised concerns regarding overlooking of properties on Reginald Street and the lack of public consultation on these further alterations. The appeal process should not be used to evolve a scheme as this could deprive those who should have been consulted on the changed development of the opportunity of such consultation.
13. Policy H2 of the Local Plan addresses the provision of additional dwellings in the borough. As the site does not appear to be allocated for residential development, criterion E of policy H2 should be considered along with the guidance of design and layout provided in Appendices 2 and 3 of the Local Plan. Appendix 2 deals with external amenity space and requires adequate open space around individual blocks, including drying areas. One-bedroom units are expected to have minimum of 5m² external amenity space per unit, while two-bedroom units are expected to provide 25m² external amenity space per unit.
14. In terms of external amenity space for the occupiers of the 4 residential units, the external space to the frontage of Cotton Mill Mews consists of parking bays and a roadway used to access the other buildings beyond the appeal site. The only usable external amenity space for the residential occupiers of the appeal site is a relatively narrow hard-surfaced alleyway to the rear of the appeal site between the Cotton Mill Mews building and the ends of rear gardens of houses on Reginald Street. This alleyway space is on the south-eastern side of the building and is accessed via either the fire escape staircase adjacent to Unit 3B or via a gate at ground floor level. The occupiers of the 4 residential units have set out tables and chairs and potted plants and the alleyway space is generally well-maintained. It is separated from the neighbouring gardens by close-boarded fencing.
15. While there is no specific drying area provided externally for the 4 residential units, it would be possible to dry clothes in this area and there is a laundry room provided at first floor level. Furthermore, while the development does not provide sufficient external amenity space to meet the requirements of Appendix 2 of the Local Plan, Appendix 2 does note that flat occupiers generally do not seek or expect the same level of garden amenity space as house dwellers. I have also considered the site's context. The site is well-located for access to parks and green spaces. I note the close proximity of the People's Park, Pope's

Meadow and Wardown Park. Given the accessibility of these open spaces to the proposed development, I do not consider that the limited provision of on-site external amenity space for the 4 residential units would be unacceptably harmful in this instance. Thus, I do not consider that the development is unacceptable in relation to the provision of external amenity space.

16. I note the multiple letters of support from the occupiers of the residential units, other current and former landowners, occupiers and leaseholders of parts of the wider industrial estate and the adjacent residential property at 2 Kingham Way and the views of local letting agents Lambert Smith Hampton. However, despite the difficulties experienced in marketing the upper floors of the appeal building for commercial use, the condition and suitability of the building for commercial use, the potential benefits of re-using parts of the building and wider site for residential use, and the level of activity on Gumtree in relation to the residential units, these issues do not in themselves outweigh the harm caused with regard to the living conditions of occupiers of the residential units.
17. Furthermore, although I note that a number of former industrial buildings in the locality have been converted to residential use, I do not know the specific circumstances of those sites. Additionally, the lapsed planning permission at the Old Bancroft Building, the conversion of 2 Kingham Way to residential use under permitted development, and the recent planning application at The White House are of limited relevance given the nature of the reasons for refusal for the appeal site which relate expressly to site-specific issues. I also recognise that adjacent buildings and land may be subject to redevelopment proposals for residential use over an extensive period of time based on financial wherewithal and lease restrictions. Neighbouring terraced houses may have been converted into flats, with consequent pressures on parking. However, I am required to deal with the appeal before me. This appeal decision would not preclude other planning applications for change of use to residential use coming forward on this site and other adjacent sites in the future. The previous conversions, nearby permissions and applications, and the possibility of future planning applications do not alter my findings with regard to this appeal.
18. The appellant has provided information on the shorthold tenancy for unit 4A, the fire safety assessment and health and safety management report for Cotton Mill Mews, and documents on the wider regeneration of the area. While I acknowledge this information and also recognise the challenges of waste collection in an area with narrow streets with parking on both sides, none of this information overcomes the issues I have identified in respect of this appeal. The appellant has expressed a number of concerns regarding the conduct of the Council in dealing with the initial planning application and subsequent appeal. This is a matter between the two parties.
19. Despite the work that the appellant has carried out with regard to property maintenance, the provision of parking for occupiers of the residential units, the pressures on local housing stock, and the relative proximity of the site to the town centre and the railway station, the development within this appeal remains unacceptable in terms of the harm outlined above. Furthermore, the dismissal of this appeal would not necessarily result in the increased use of the estate for prostitution, drug use and fly tipping.
20. Concluding on this main issue, although I do not find harm in respect of external amenity space, I consider that the development is overly intensive and

results in unacceptably cramped, inadequate, and oppressive internal living conditions for the occupiers of the residential units with regard to internal space, outlook and light. The development fails to achieve a satisfactory quality of living environment and is therefore contrary to policies LP1 and ENV9 of the Local Plan and the objectives of the Framework. Policy LP1 is a general policy which addresses the Council's sustainable development strategy and requires development to maximise the opportunity to improve residents' quality of life. Policy ENV9 seeks the use of passive energy sources and minimisation of energy and water consumption. Though relevant with regard to external amenity space, policy H2 of the Local Plan does not appear to be directly relevant with regard to internal space, outlook and light within a building previously in commercial use.

Conclusion

21. For the reasons set out above, and having regard to all matters raised, I conclude that the appeal should be dismissed.

J Gilbert

INSPECTOR