The Planning Inspectorate

Appeal Decision

Site visit made on 4 March 2019

by Philip Willmer BSc Dip Arch RIBA

an Inspector appointed by the Secretary of State

Decision date: 23rd April 2019

Appeal Ref: APP/B1415/W/18/3215196
2 Cambridge Road, Hastings, East Sussex, TN34 1DJ.

- 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 Mr Mehrbaz Jooshandeh against the decision of Hastings Borough Council.
- The application Ref HF/FA/18/00512, dated 1 June 2018, was refused by notice dated 19 September 2018.
- The development proposed is described as *change of use of upper ground floor to one bedroom flat from office.*

Decision

1. The appeal is dismissed.

Procedural Matters

2. As I saw the lower ground floor is currently occupied as a shop (A1), the upper ground floor is vacant and the upper floors are in residential occupation. I understand from the Council's evidence that the lower ground and ground floors were previously occupied by a hair and beauty salon, indeed the salon is still being advertised on the large bay window at upper ground floor level.

3. There appears to be some dispute between the parties as to whether the upper ground floor is a retail premises (A1) or an office (B1). The appellant suggests that because the upper ground floor was occupied for a short period of time by an estate agency that this has resulted in a change of use from A1 to B1. However, such a use would fall into use class A2 and not B1.

4. Based on any conclusive evidence to show a change of use from A1 to B1 and no change of use has been granted, I shall proceed to determine this appeal on the basis that what is proposed is a change of use from A1 to C3 at upper ground floor level.

Main Issues

5. I consider the main issues to be:

   a)the effect of the proposed change of use on the character of the Hastings Town Centre Shopping Area;

   b) whether the proposed development would achieve a good standard of accommodation for future users; and,

c) the effect of the proposal on the living conditions of neighbouring occupiers in terms of noise and nuisance, lack of privacy and likely disturbance.

Reasons

Town centre shopping area

6. The property the subject of this appeal, 2 Cambridge Road, is a four-storey building. Cambridge Road is characterised by a mix of uses. The site is located within the Hastings Town Centre Conservation Area, a defined shopping area and the Hastings Town Centre Business Improvement District (BIDs).

7. The appellant proposes the change of use of the upper ground floor from A1 to a one-bedroom flat (C3).

8. Policy SA1 of the Hastings Local Plan – *Shaping Hastings* - Development Management Plan (Adopted 23 September 2015) (DMP) advises that A1, A2, A3, A4 and other uses appropriate to the character of the shopping area will be permitted provided both criterion a) and b) of the policy are satisfied. Criterion a) states along with other things that the proposal would not result in non-A1 uses exceeding 45% of the total number of ground floor units in the remaining shopping area; criterion b) states the proposal would not result in such a concentration of non-class A1 uses as to lead to a significant interruption in the shopping frontage, thus harming the vitality and viability of the town centre shopping area as a whole.

9. The Council has advised that the current percentage position, as at the 18 March 2019, between planning Use Class A1 and non-A1 uses in the Hastings Town Centre Shopping Area is either 44.4% or 44.7% depending on the potential implementation of HS/FA/18/00722. Further, I understand that the determination of two further planning applications (HS/FA/18/1040 and HS/FA/19/00048), that if permitted, would impact on the policy threshold are imminent. Indeed the appellant advises that they have both been allowed. Whatever the outcome of these matters, details of which have not been provided, the position is currently nearing the 45% figure set out in DMP Policy SA1.

10. The maintenance of the town centre shopping area is a key concern for the Council. As I observed, although not in the main hub of the town centre, this part of Cambridge Road provides an important supporting role for shopping. The loss of a retail use here would, in my judgement, not only undermine the viability and vitality of the neighbouring retail offering but the town centre more generally by denuding the character and attractiveness of this shopping frontage.

11. Furthermore, as outlined above the balance of A1 uses and non-A1 uses is in any case close to the figure set out in the policy. Accordingly, therefore, on balance, to allow a change of use here as proposed would, in a small but material way, undermine the policy objective.

12. I therefore conclude in respect of the first main issue that the loss of the retail premises here would have a harmful impact on the character of the town centre shopping area contrary to DMP Policy SA1 which seeks to maintain the vitality and viability of the town centre shopping area.

Standard of accommodation

13. The proposed one bedroom flat would comprise a living room entered off the common hall. This would in turn lead to a bedroom and thence to the kitchen and bathroom at the rear of the dwelling.

14. The floorspace is limited and slightly below the standard for one bedroom flats set out in DMP Policy DM3. Nevertheless, by way of a carefully considered design an acceptable one bedroom flat could, I believe, be achieved.

15. However, in my judgement, the proposed layout would provide a poor level of accommodation for the following reasons. The bedroom would be located so as to be a linking space between the living room and the kitchen/bathroom. In addition, the entry and exit doors in both the living room and bedroom are positioned such that valuable useable floorspace would be lost to circulation space in both rooms by people having to cross the rooms at 45 degrees. Further, the kitchen/bathroom layout suggests that the shower would be entered directly from the kitchen, with no intervening door, and the W.C. and basin would then in turn be accessed through the shower.

16. I conclude, in respect of the second main issue, that due to the layout of the proposed flat it would not provide a good standard of accommodation for future occupiers. It would therefore be contrary to DMP Policy DM3, which requires residents to live comfortably and conveniently.

Living conditions

17. I appreciate that the upper floors of this building, above the proposed flat, might be occupied by residential tenants and the lower ground floor currently enjoys an A1 use. However, in order for the conversion to be undertaken the existing floors, ceilings and walls would need to be upgraded to meet current building regulation standards in respect of, amongst other things, sound proofing between the compartments.

18. I also note the location of the property in a busy town centre adjacent to a public house. There is therefore the potential for there to be a vibrant day time and night time economy, leading to some noise and nuisance. While there may be some future occupiers that might be put off by this location others might actively seek out such a location.

19. I therefore conclude, in respect of the final issue, that for the reasons given the proposed location would not necessarily result in the significant harm identified by the Council to the living conditions of neighbouring occupies. The proposal would therefore accord with the objectives of DMP Policy DM3 as it seeks to protect residential living conditions.

Other Matters

20. No external alterations are proposed to the building or its setting. Accordingly therefore I agree with the Council's conclusion that the proposed development would, in this case, serve to preserve the character and appearance of the Hastings Town Centre Conservation Area.

Conclusions

21. Having regard to all matters I have concluded that the proposal would not prejudice the living conditions of neighbouring occupiers. However, it would

result in unacceptable harm to the character of the Hastings Town Centre Shopping Area and to future occupiers in terms of the standard of accommodation and for these reasons the appeal should not succeed.

Philip Willmer

INSPECTOR