The Planning Inspectorate

Appeal Decision

Site visit made on 2 April 2019

by M Aqbal BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2ND May 2019.

Appeal Ref: APP/J1860/W/18/3217721
91 The Express Inn, Quest Hills Road, Malvern WR14 1RN

- 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 Peter Styles, Fatydam 2 Limited against the decision of Malvern Hills District Council.
- The application Ref 18/00815/FUL, dated 3 January 2018, was refused by notice dated 7 August 2018.
- The development proposed is conversion of brick storage units to create two residential duplex apartments.

Decision

1. The appeal is dismissed.

Procedural Matter

2. Subsequent to the Council's decision, part of the boundary wall enclosing the appeal site along Howsell Road has been reduced in height. This alteration does not reflect the submitted drawings on the basis of which the application was determined. I have determined this appeal on the basis of the submitted drawings.

Main Issue

3. The main issue is the effect of the proposed development on the living conditions of future occupiers having regard to outlook, privacy, and noise and disturbance.

Reasons

4. The appeal site comprises a broadly triangular shaped parcel of land that lies to the immediate north of the Express Inn and the outdoor seating area for this public house. The site is occupied by a lean-to, single-storey storage building, located behind a small enclosed yard area, accessed via Howsell Road.

5. The existing building would be extended upwards, altered and converted to create two single-bed duplex apartments. Each unit would contain a kitchen/living room on the ground floor with a bedroom and bathroom at first floor. The high boundary wall and gates enclosing the site would be modified to facilitate the proposed parking spaces and pedestrian gates.

6. The gross internal area for the proposed apartments exceeds the guidance for one-bedroom, single person apartments[1]. Nonetheless, the ground floor accommodation would be single-aspect and despite incorporating full height windows and facing the proposed amenity area, these would be in close proximity of the modified high boundary wall. As a result of this arrangement, the wall would significantly dominate and enclose these windows creating a particularly cramped and bleak outlook for future occupants. The view from the main ground floor accommodation of these units would be particularly unacceptable.

7. The proposed amenity space for the new apartments would be adjacent to the outdoor seating area at the Express Inn. This sizeable area is on a raised level relative to the appeal site, it is largely open and incorporates tables and seating. A noise assessment has been submitted in support of the proposal. Worcester Regulatory Services consider this to be acceptable. Nonetheless, the assessment focuses on achieving an acceptable internal noise environment for future occupiers based on sound emitted from the pub function room and skittle alley. There is no assessment made in respect of the effects of noise from the use of the outdoor seating area.

8. Future occupants of the new apartments when using the proposed amenity areas would be particularly susceptible to noise and disturbance emanating from the outdoor seating area including loud conversations along with sudden outbursts such as shouting from customers. This is because of the proposed layout of the amenity areas. Such noise and disturbance would also be of particular concern when future occupants would wish to have the option of opening doors and windows for ventilation. General disturbance would increase during the summer months when the public house's outdoor seating area is in more regular use.

9. The proposed private amenity areas for the apartments broadly accord in respect of size for such units, based on the South Worcestershire Design Guide Supplementary Planning Document. Nonetheless, future occupants would be adversely affected by the environment given the design and layout of the proposed development, which significantly undermines the overall quality of the amenity areas, particularly with regard to noise and disturbance.

10. There are existing dwellings surrounding the Express Inn, but these are not as close to the outdoor seating area. The location of existing dwellings relative to the public house is not directly comparable. In light of this, the appellant's argument that the existing situation has not resulted in any noise related complaints, attracts limited weight.

11. I have taken account of the Council's concerns in respect of a first-floor window to the kitchen area for the Express Inn. This has been blocked and therefore no longer results in any overlooking and loss of privacy for the appeal site.

12. Nevertheless, for the above reasons the proposed development would significantly harm the living conditions for future occupiers in respect of outlook and noise and disturbance. As such, I find conflict with Policies SWDP 21 and SWDP 31 of the South Worcestershire Development Plan (SWDP), insofar as they seek to ensure that development is designed to provide an adequate level of outlook and avoids other adverse effects on the living conditions of occupiers

[1] Technical housing standards – nationally described space standard

in terms of health and well-being from noise and disturbance. Accordingly, I also find conflict with similar aims expressed in the Framework[2].

Other Considerations

13. The appeal site is in a location with easy access to public transport, shops, services and facilities. The proposal also relates to a brownfield, windfall site, the redevelopment of which is supported by local and national planning policy. In particular, Policy SWDP 13 of the SWDP which seeks to make the most effective and sustainable use of land. The supporting text to this policy recognises that a balance has to be struck between making more efficient use of land, concentrating development and bringing people, services and facilities closer together, thereby reducing the need to travel, and higher densities that lead to land uses and their occupiers being in closer proximity, which could generate adverse impacts such as noise and disturbance. Having regard to my findings above, I give such support limited weight.

14. Although the Framework promotes the effective use of land in meeting the need for homes, this is subject to ensuring safe and healthy living conditions, which is not the case here, based on the harm I have already identified.

15. The social benefits of the proposal would include a contribution towards the districts housing need for one-bed apartments. There would also be economic benefits, during the construction phase of the development and additional expenditure arising from the occupation of the two new apartments. The proposed scheme also utilises an existing building and therefore would fulfil an environmental role. Nevertheless, in light of the above and given its modest scale, the benefits arising from the proposed development would be moderate.

16. The lack of objections from neighbours and consultees is a neutral factor which does not weigh in support or against the proposal.

Other matters

17. I have been referred to a previous appeal decision[3] relating to residential development on the car park of the Express Inn. That scheme is materially different to the proposals which are subject of this appeal. I have therefore determined the appeal before me on its merits.

Planning balance and conclusion

18. The proposal would provide some social, economic and environmental benefits. However, these and other considerations advanced do not outweigh my findings with regard to the significant harm to the living conditions of future occupants.

19. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

M Aqbal
INSPECTOR

[2] Paragraph 127(f)
[3] APP/J1860/W/16/3161680