



Appeal Decisions

Site visit made on 4 June 2019

by J Ayres BA Hons, Solicitor

an Inspector appointed by the Secretary of State

Decision date: 15 July 2019

Appeal Ref: APP/T1410/W/19/3225628 Kempston, 3 Granville Road, Eastbourne

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Saville of Associated Property Owners against the decision of Eastbourne Borough Council.
 - The application Ref 190103, dated 2 February 2019, was refused by notice dated 1 March 2019.
 - The development proposed is prior approval for the residential building to be demolished to slab level in accordance with Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the demolition of the residential building at Kempston, 3 Granville Road, Eastbourne in accordance with the details submitted pursuant to Schedule 2, Part 11, Class B.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Application for costs

2. An application for costs was made by Mr Saville of Associated Property Owners against Eastbourne Borough Council. This application is the subject of a separate Decision.

Background and Main Issue

3. The appeal concerns the demolition of the building called Kempston, which was refused prior approval by the Council under the terms of Schedule 2, Part 11, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).
4. The GPDO permits, subject to compliance with the statutory instrument, a building operation consisting of the demolition of a building. However, such development is not permitted by Schedule 2, Part 11, Class B of the GPDO if the building has been rendered unsafe or otherwise uninhabitable by the action or inaction of any person having an interest in the land on which the building stands and it is practicable to secure safety or health works by repair or works

for affording temporary support. This is stated as the reason for which the council refused prior approval on its decision notice.

5. As a consequence, I consider the main issue to be whether the appellant, being the relevant party with an interest in the property for the purposes of the GPDO, has allowed the building to become unsafe or uninhabitable through their action or inaction.

Reasons

6. Kempston is a large Victorian villa, it is not listed and is not located within a conservation area. In 1956 permission was granted to convert the building into 8 individual flats each containing one bedroom and suitable for a maximum of 2 occupants.
7. Flat 1, which is located on the lower ground floor, has not been inhabited since 2014, and flat 2, also on the lower ground floor, was vacated in 2016. Remedial works were carried out to Flat 1, whilst Flat 2 is subject to a Suspension Notice. These matters are not in dispute.
8. The evidence is clear that a number of issues were raised regarding the building in addition to those matters of concern relating to the lower ground floor through-out the course of 2016. As a result, an Improvement Notice was served on the appellant in 2016 requiring a programme of works to be carried out to address the identified hazards, which varied in seriousness. All works were completed by August 2017 with three exceptions, which the council's specialist advisor clarified were more minor hazards and raised no further concerns. In addition to the works required by the remediation notice, the appellant carried out a schedule of maintenance works throughout 2017 and 2018.
9. The appellant entered into pre-application discussions with the Council regarding the redevelopment of the site in August 2017. They then submitted two applications in 2018 for planning permission to demolish the building and erect 16 apartments. Both applications were refused by the Council and are the subject of separate appeals¹. During the course of the applications, and part of the subsequent appeal process, the occupancy of the building decreased from 6 of the 8 flats being let, to it now being entirely vacant, with the last tenant moving out of the property in December 2018.
10. Whilst there were some issues raised by tenants relating to repair issues associated with the building, these do not appear to be matters that had arisen from personal neglect on the appellant's part. The building is very old, and the functional and physical effect of occupation is realistically going to have an impact on the property. I have limited evidence that would lead me to conclude that the appellant purposefully allowed the property to fall into disrepair in order to force tenants to leave. There appears to be an amalgamation of factors which resulted in the occupancy of the building decreasing, including the natural expiration of leases, serving notice in light of the decision to pursue redevelopment of the site, the lack of interest in letting one of the flats, and personal circumstances of individual tenants.
11. Of the eight possible tenants (based on full occupancy to include flat 2 which is subject to the suspension order), five tenants have initially remained with the

¹ APP/T1410/W/18/3213358 and APP/T1410/W/19/3224443

appellant and have located to other accommodation owned and managed by the appellant. This suggests that the appellant has treated their tenants properly and is able to offer and provide satisfactory accommodation. It is understandable that some tenants would wish to stay in the appeal property due to personal preferences and factors such as links to the local community. However, whilst I empathise with the tenants in this regard, it does not create a set of circumstances that would justify finding the appellant was wilfully neglectful. The historical, and present, arrangements do not lead me to conclude that the appellant has behaved in an inconsiderate or disdainful manner towards their tenants.

12. At the time of my site visit the property had been empty for nearly six months, however I was able to carry out an inspection of the surrounding grounds and internal areas unaccompanied with the only safety concern being the current absence of a light for the rear staircase to the lower ground floor.
13. The boundary is enclosed by wooden security hoardings, and the ground floor windows are boarded shut. These measures have been put in place to ensure that the property is not damaged or used illegally, and whilst they are not aesthetically pleasing, they are practical and necessary. With the exception of one on the top floor, all windows are intact, and there does not appear to be any damage to the roof. The hallways and staircases are intact and useable, providing access to all levels.
14. Internally the property is carpeted in most of the rooms, there are signs of use which are to be expected given the previous occupation of the properties, however the carpets are in good condition. Those rooms with hard flooring, such as the kitchens and bathrooms are also in good condition. The electricity and water are working through-out the building, and there are no signs of any leaks or damage. The kitchens and bathrooms are in good decorative condition, and subject to the installation of white goods there is no reason why the flats could not be occupied.
15. It is clear upon inspection that the appellant has not rendered the building uninhabitable either through their actions or inactions. Whilst the building is currently vacant it would require only a number of minor works in order for it to be ready for occupation. Subject to the removal of the hoardings and shutters, the installation of white goods, and the cleaning of carpets and communal areas, there is nothing to suggest that the property is either unsafe or uninhabitable.

Conditions

16. Development under Class B is permitted subject to those conditions set out in Paragraph B.2.

Conclusion

17. The proposal would be permitted development under Schedule 2, Part 11, Class B of the GPDO. For the reasons given it is concluded that the appeal should be allowed and approval granted.

J Ayres

INSPECTOR