

Appeal Decision

Site visit made on 6 August 2019

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2019

Appeal Ref: APP/J2210/W/19/3229665
44 Canterbury Road, Herne Bay, CT6 5DF

- 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 Ms A Mehta against the decision of Canterbury City Council.
 - The application Ref 18/01874, dated 18 July 2018, was refused by notice dated 8 February 2019.
 - The development proposed is a change of use from residential to D1 (Dental Clinic).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development used above has been taken from the planning application form. The council used a different description and in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application in the heading above.
3. Similarly, although the appeal form has altered the address of the property, I have not been provided with confirmation that this has been agreed by both parties and I have therefore used the address given on the original application form, which was also used in the council's decision notice.

Main Issues

4. The main issue is the acceptability of the loss of residential accommodation.

Reasons

5. The site contains a detached building within a mostly residential area that accommodates a dental clinic at ground floor and residential accommodation at first and second floor. The residential accommodation can currently be accessed from the dental clinic or, as shown by the submitted plans, from the side access and rear garden of the site. The proposal is for the change of use of the building to enable the use of the whole building as a dental clinic.
6. Policy HD8 of the Canterbury District Local Plan (July 2017) states that the loss of housing accommodation will only be permitted where one of the exceptions set out in that policy are met.

7. The first exception is where the accommodation is unsuitable for residential use. The case has been made that the building has been vacant and marketed for a considerable period of time, but no evidence has been provided to support this assertion. There is no policy requirement for a property to have been marketed, but equally, in the absence of any details, it has not been demonstrated that the property could not be occupied. Although the existing access is either through the garden area, which hosts clinical waste storage, or through the ground floor of the building, the appeal submissions do not make the case that this would prevent occupation.
8. With regard to the second exemption, the appellant has stated that the existing residential and dentistry uses are incompatible. In this respect no evidence has been provided to demonstrate that the ground floor use generates noise that makes the living conditions of the existing accommodation unacceptable. Furthermore, I am not persuaded that the residential occupation of the upper floors would prevent or significantly detract from the ground floor use and have no evidence to demonstrate that this has been the case previously.
9. The third exception applies when refurbishment is required to enable the retention of a building that is important to the character of the area. The appellant highlights that works of repair are required to the building, but it has not been demonstrated that these works are unfeasible or unviable if the building was to retain residential accommodation. Despite comments made to the contrary, it is not clear how refurbishment for residential purposes would be any less disruptive to the dental clinic than refurbishment associated with the change of use. No explanation has been provided of how the temporary upheaval and disturbance from refurbishment would cause the closure of the dental practice in one outcome but not the other and I therefore afford this matter minimal weight.
10. The final exception can apply where the proposed use meets an identified need and is compatible with the area. In this regard, the appellant highlights that the existing business needs to develop to meet demand that is arising and retain the community benefit that the existing use offers. However, no details have been provided in relation to the existing or intended patient numbers and no evidence has been provided in relation to the need for dental facilities in the locality. Furthermore, there is no evidence available to suggest that the continuation of the existing dentistry use is dependent on its expansion and therefore I do not afford weight to the suggestion that there would be harm to the local community if the facility were to close.
11. Examples have been provided of decisions where the council found proposals to be in accordance with policy HD8. The accompanying officer reports clarify why those developments were deemed to be in accordance with the policy and the proposals and circumstances appear to be different to this proposal. As such I do not apply more weight to those examples than the above considerations in respect of the development plan policy. In any event, I am not bound by previous decisions of the Council.
12. Furthermore, as the Framework states that the Government's objective is to boost the supply of homes, the loss of residential accommodation would undermine this objective. Therefore, for the reasons set out above, it has not been demonstrated that the proposed use is more effective than the existing use in terms of meeting the objectives of the Framework.

13. For the above reasons I conclude that the proposal would cause the unacceptable loss of residential accommodation. The proposal is therefore contrary to policy HD8 which states that the loss of housing accommodation will only be permitted in specific circumstances.

Other Matters

14. The site is within the Herne Bay Conservation Area and as such I have paid special attention to the desirability of preserving or enhancing the character and appearance of that area. As no external alterations are proposed, I consider that the proposal would preserve the character and appearance of the Conservation Area.
15. Due to the location of the site, I do not find that the proposal would bring benefits to the viability or vitality of Herne Bay town centre in a manner that would alter my conclusion in respect of the main issue. I also give no weight to the potential reversibility of the change of use as it is not possible to know the circumstances or planning policies in effect at an unspecified time in the future.

Conclusion

16. For the reasons given above, I conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR