



Appeal Decision

Site visit made on 6 November 2019

by Martin Chandler BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 November 2019

Appeal Ref: APP/F0114/W/19/3233808

16 Coombend, Radstock BA3 3AJ

- 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 Simon Heal on behalf of 010 Ltd against the decision of Bath & North East Somerset Council.
 - The application Ref 18/05470/FUL, dated 6 December 2018, was refused by notice dated 25 January 2019.
 - The development proposed is retrospective application for the conversion of office space to two one bed self-contained flats.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. As identified in the banner heading above, the proposal seeks retrospective planning permission. I have assessed the appeal accordingly.

Main Issues

3. The main issues are the suitability of the proposed use, having regard to:
 - i) Living conditions for current and future occupiers of the self-contained flats; and
 - ii) the effect on the local economy.

Reasons

Living conditions

4. The appeal site is located within a mixed-use environment. However, whilst there are residential properties opposite the site and on the other side of the road, the immediately adjacent neighbours are commercial, noise generating uses. To the south east of the appeal site, there is a car repair garage and to the north west, there is a gym and Taekwondo Hall.
5. Flat 1 is a single aspect apartment and its outlook is directly towards the car repair garage. Flat 2 benefits from an outlook towards the highway with one obscurely glazed window serving an en-suite bathroom that faces towards the adjacent garage. The apartments are accessed through a shared entrance and staircase for the Taekwondo Hall and Flat 1 shares a party wall with the staircase as well as the Hall itself.

6. The appeal has been accompanied by a Noise Impact Assessment. This states that noise from external sources, specifically road traffic and garage noise, needs to be mitigated and it is suggested that this could be done with good acoustic double glazing secured through a suitably worded planning condition. Based on the evidence before me, I have no reason to dispute this claim.
7. However, if the glazing was improved, the attenuation would only be relevant if the windows remained closed. As identified above, Flat 1 is a single aspect apartment and any windows that could be opened would look directly towards the garage. Therefore, whilst suitable attenuation might be achievable with the windows shut, based on the evidence before me, I cannot be certain that the same would be true if the windows were to be opened. Due to this uncertainty, despite the advice provided by the Council's Environmental Protection Team, a condition to control noise attenuation through window glazing would fail the tests of reasonableness and precision established within the National Planning Policy Framework. Accordingly, I cannot be satisfied that the use of a condition in relation to window glazing would provide suitable living conditions for current and future occupiers.
8. The adjacent Taekwondo Hall also generates noise and the noise assessment specifically refers to noises associated with door banging, training sessions, and staircase queuing. Based on the evidence before me, it is accepted by the appellant that the noise levels recorded require attenuation to provide suitable living conditions for the flats. On this basis, the report makes suggestions in relation to mitigation measures. However, the effect that good door frame seals would have on the noise generated by door banging is unclear. In addition, reliance upon the Taekwondo instructor to limit noise from within the hall itself also has inherent uncertainties attached to it. I am therefore not satisfied that such an approach could be enforced through the planning regime.
9. Finally, a revised ground floor plan has been submitted which shows an area for waiting students to gather to reduce the noise levels caused by staircase queuing. Despite this, the evidence does not identify the capacity of this area or whether it would be sufficient in size to prevent or suitably limit queuing on the stairs. Consequently, the use of a condition to secure this measure lacks the precision to ensure that it would be an effective method of restricting noise.
10. Planning conditions can be used to make unacceptable development acceptable. However, based on the evidence before me, I cannot be certain that the suggested conditions would have the necessary impact to ensure suitable noise attenuation. Therefore, for the reasons identified above, I conclude that the proposal would fail to provide suitable living conditions for current and future occupiers. Accordingly, it would fail to comply with Policies PCS2 and D6 of the Bath and North East Somerset Local Plan 2011 – 2029, Core Strategy and Placemaking Plan (2017) (PP). Taken together, these seek development which provides appropriate levels of amenity and avoids locations where the occupants would be subject to unacceptable levels of noise.

Office space

11. Policy ED1B of the PP states that the conversion of office space to residential is normally permitted development. However, the conversion from office space to residential has already taken place. As a consequence, the conversion is unable to take advantage of the permitted development rights established within the Town and Country Planning (General Permitted Development) Order 2015

(GPDO). Consequently, the Council consider that strong economic reasons exist for refusing the proposal.

12. However, based on the evidence before me, the relevance of this element of the policy relates to the redevelopment of office space. Redevelopment is qualified in the policy as demolition and construction of a new building and the proposal does not seek to do this. The policy also states that if the permitted development rules referred to no longer apply, this would also be a reason to consider whether strong economic reasons exist to refuse planning permission. However, this is also qualified as being either due to the introduction of a direction under Article 4 of the Town and Country Planning Acts, or through changes to national legislation or policy. Consequently, I am satisfied that this element of the policy is not relevant in my assessment of the appeal.
13. Policy SV1 of the PP sets out the spatial strategy for Somer Valley. It encourages the retention and expansion of local companies and seeks to protect land in existing business. However, it also identifies the housing need for the area. Based on the evidence before me, I have no compelling reason to conclude that the proposal would conflict with the overall aspirations of the spatial strategy.
14. For the reasons identified above, I conclude that the proposal would not harm the local economy. It would therefore not conflict with Policies ED1B and SV1 of the PP, which taken together, establish the spatial strategy for the economic development of Somer Valley.

Other Matters

15. The proposal would have no effect on the living conditions enjoyed by neighbouring properties, and I am satisfied that the proposal would not harm highway safety.
16. I have no reason to disagree with the conclusions of the parties in relation to flood risk, and due to the internal nature of the works, I am satisfied that the proposal would preserve or enhance the character or appearance of the Radstock Conservation Area. However, these matters are not benefits of the proposal and consequently, they weigh neutrally in my assessment of the appeal and therefore do not alter my overall findings.

Conclusion

17. I have found that the proposal would not harm the local economy. However, I have also found that the living conditions for current and future occupiers would not be suitable. This is a matter of overriding concern and therefore, for the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR