



Appeal Decision

Site visit made on 16 December 2019

by M Savage BSc (Hons) MCD MRTPI

An Inspector appointed by the Secretary of State

Decision date: 24 January 2020

Appeal Ref: APP/C3240/C/19/3232107

Land at 25 Bank Road, Wellington, Telford TF1 1SA

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
 - The appeal is made by Mr Munir Hussain against an enforcement notice issued by Telford and Wrekin Council.
 - The enforcement notice was issued on 28 May 2019.
 - The breach of planning control as alleged in the notice is without planning permission, the unauthorised change of use of the ground floor from retail (Use Class A1) to a mixed use of retail (Use Class A1) and 2no self-contained residential units (Use Class C3).
 - The requirements of the notice are:
 1. Cease the use of the ground floor of the premises for residential use
 2. Remove all kitchens, bathrooms, internal separating doors and walls and all other fixtures and fittings associated with the unauthorised use from the ground floor of the premises
 3. Remove the windows installed on the ground floor of the property in connection with flat 1, with the openings blocked up and the property returned to its previous condition and appearance
 - The period for compliance with the requirements is three months.
 - The appeal is proceeding on the grounds set out in section 174(2)[a] of the Town and Country Planning Act 1990 as amended.
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Decision

1. The appeal is dismissed and the enforcement notice is upheld. Planning permission is refused on the application deemed to have been made under section 177(5) of the 1990 Act as amended.

Procedural Matter

2. At the time of my visit I saw that the area to the rear of the property has been subdivided to form car sales. It is evident from the information before me that this was not present at the time the enforcement notice was issued and does not form part of the alleged breach. Since these modifications were carried out after the enforcement notice was issued, they are not part of the development the subject of the deemed application before me and do not fall to be considered.

Main Issues

3. The main issues are whether the appeal scheme provides a satisfactory level of accommodation with respect to the provision of internal floor space, private amenity space, outlook, light and ventilation.

Reasons

4. The appeal property has an established planning use as a shop (Use Class A1) on the ground floor, with a residential unit on the first floor. To the rear of the property is a service yard, which was not accessible at the time of my site visit. Policy BE1 of the Telford & Wrekin Local Plan (TWLP)(2018) and the National Planning Policy Framework (the 'Framework')(2019) seeks to ensure that development enhances the quality of the local built and natural environment. Paragraphs 124 to 132 of the Framework seeks to achieve well-designed places.
5. The Council has made reference to the Nationally Described Space Standards in its Statement of Case. Although Policy BE1 seeks to enhance the quality of the local built environment, it does not require compliance with the Nationally Described Space Standard. Accordingly, the standards do not apply in this case.
6. The first flat, referred to as Flat 1 in the Council's Statement of Case, is identified as having a gross internal floor area of around 22 square metres and comprises a kitchen, shower room and bedroom / living space. The kitchen area is accessed directly from outside and provides access to the shower room and bedroom/living area.
7. Although the flat appeared to contain the required facilities for day-to-day living, the shower room has very limited space which significantly limits the ability of a user to enter and exit the shower. Furthermore, the bedroom looks out over the yard area towards residential properties with very limited outlook, creating a harmful sense of enclosure.
8. The second flat, referred to as Flat 2 in the Council's Statement of Case, is identified as having a gross internal floor area of around 29 square metres and comprises a separate shower room and a room with a kitchen area and a bedroom/living area. Although there is a window in the kitchen, because of the depth of the room, limited light reaches the bedroom/living area. This is likely to result in occupants of the flat relying on artificial lighting much of the time.
9. Although the flats are one bedroomed, occupants are likely to require some outdoor amenity space in order to dry clothes, store bins, bicycles and other paraphernalia. I have no substantive details of the outdoor space that would be available to the occupants of the flats. The retail unit did not appear to be occupied at the time of my visit. Nevertheless, I am mindful that a retail use is likely to have external storage and parking requirements which would need to be met. It has therefore not been demonstrated that there is sufficient outdoor amenity space.
10. For the reasons set out above, the flats fail to provide satisfactory living conditions for the occupants, contrary to Policy BE1 of the TWLP, the requirements of which are set out above, and contrary to the Framework.
11. The Council has raised concern regarding the standard of the construction, including levels of ventilation within the property. However, such matters could reasonably be dealt with under other legislation.

Conclusion

12. For the reasons given above, I conclude that the appeal should not succeed. I shall uphold the enforcement notice and refuse to grant planning permission on the deemed application.

M Savage

INSPECTOR