
Appeal Decision

Site visit made on 16 December 2019

by S. Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/D0121/W/19/3237895

First and Second Floors - Union House, 3-15 High Street, Weston-Super-Mare BS23 1HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr Peter Carter (Standbetter Ltd) against the decision of North Somerset Council.
 - The application Ref 19/P/0078/COA, dated 11 January 2019, was refused by notice dated 8 April 2019.
 - The development proposed is Prior Approval for the change of use of first and second offices (Use Class B1(a)) to 8no. two bedroom flats (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Schedule 2, Part 3, Class O of the General Permitted Development Order (GPDO) permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a)(offices) of the Schedule to the Use Classes Order, to a use falling within Class C3(dwellinghouses) of that Schedule.
3. Development under Class O of the GPDO is permitted subject to the condition that before beginning the development, the developer must apply to the Local Planning Authority for a determination as to whether the prior approval of the authority will be required as regards the transport and highways impacts of the development; contamination risks on the site; flooding risks on the site; and impacts of noise from commercial premises on the intended occupiers of the development.
4. The matters in dispute are the impacts of noise from commercial premises on the potential future occupiers of the development and also the highway impacts. All other matters were considered to be acceptable and there is no reason for me to disagree.

Main Issues

5. The main issue is whether the proposal would result in highway safety risks and whether the location of the proposed dwelling would be appropriate, considering the noise effects to future occupiers.

Reasons

Noise Impacts

6. The appeal is accompanied by a Noise Impact Assessment (NIA) by Acoustic Consultants Ltd (updated September 2019), together with further responses from these consultants to issues raised by the Council.
7. The initial survey was conducted in November 2018 with a baseline noise monitoring exercise which was considered to represent the position of the noise sensitive receivers in the proposed flats which back onto the rear lane, where there is a number of plant units.
8. To assess the noise from the 'worst case plant unit' a measurement was also taken in November 2018 of 61dB from a 'Daikin' unit. The appellant stated that they could not measure the other plant condenser units for noise as they were not in operation at the time of the survey and were not in the control of the appellant. Manufacturing data was instead used. The result was that it was anticipated that there would be an increase of 3dB above background levels as a result of these condenser units for occupants of the proposed flats, which is considered by the appellant as a low impact.
9. However, as the survey is based on only a measurement of one condenser unit then this is a significant limitation on the survey data. Whilst the manufacturing company data for the other units may be accurate, over time this may not be the case which may result in increased cumulative noise from the condenser units above that anticipated in the NIA.
10. Furthermore, I observed the rear of cafés/restaurants to the opposite side of the lane and it is not sufficiently clear to me whether the noise that would emanate from these establishments and their extraction systems, particularly in the evening through to the night, has been taken fully into consideration with the NIA with detailed measurements. If not, this could be a significant noise impact that would have a potential impact on the living conditions of future occupiers. In this regard I do not consider there to be full detail of the noise levels that future occupants could be subjected to regularly.
11. The appellant has states that deliveries or waste collection would be a short term noise impact within the day, to be expected in such environments. However, this is a short and quite narrow lane which is surrounded by commercial properties, many of which may use the lane for delivery access. I would regard there to be the possibility of significant levels of noise due to multiple deliveries or waste collection just outside of the proposed flats.
12. I recognise that noise mitigation, such as the use of mechanical ventilation, could reduce the noise impact of future occupants significantly. However, from the information before me, it has not been sufficiently demonstrated that the noise from outside plant and activity would not result in a significant adverse impact to the living conditions of future occupants, even with the mitigation mentioned. The fact that the butchers is closed and that their air conditioning

unit is under the ownership of the appellant does not address the noise possible from other sources of noise in this rear lane.

13. Overall, the submitted noise assessment has not sufficiently demonstrated that the future occupants of the proposed flats would not have their living conditions significantly harmed by noise from the multiple sources of potential noise within the rear lane. Without such evidence, I conclude that such an amount of plant, together with other sources of noise, units near the windows of the proposed flats would be harmful to living conditions of future occupiers.

Highway Issues

14. The site is currently an office building in the centre of Weston-super-Mare. There is no parking provision currently available and none proposed either. However, this is a central location and I also recognise that the current use would also generate some parking demand. I also note the restrictions to on-street parking that exists in the area, including 'pay and display' which may also limit car ownership for occupiers. On this basis, I do not regard the proposal would result in adverse transport impacts and I have no substantive evidence that there being no associated off-street parking would result in highway safety impacts.
15. The amended plans also include a cycle store at ground floor level near the access. This is considered a suitable location for a cycle store. It is apparent from the size of the cycle store that the number of bicycles that could be stored here would not meet the Council requirement for 16 (2 per flat). However, as this is a very central location, with shops, services, public transport links and employment opportunities within walking distance, I regard there to be less of a need for such a level of cycle provision.
16. In any case, the lack of cycle storage provision would not result in adverse transport or highway issues, as there is no car parking provision either. The lack of cycle parking would not, therefore, likely result in an increase of car traffic on the surrounding highway network.
17. My attention has been drawn to another appeal decision on a similar proposal in Lambeth (Ref: APP/N5660/W/18/3196914) but there are clear differences between the developments and their location which means I give this other decision limited weight in my consideration for this appeal.
18. Overall, I do not regard there to be highway or transport impacts and the proposal would be in general accordance with the National Planning Policy Framework on these matters.

Conclusion

19. For the reasons given above, the appeal should be dismissed due to the issue of noise and its effect on future occupants of the proposed development.

S. Rennie

INSPECTOR