



Appeal Decision

Site visit made on 27 January 2020

by Mrs H Nicholls MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 February 2020

Appeal Ref: APP/N1160/W/19/3238556

Eclipse House, 5 Somerset Place Lane, Plymouth PL3 4BH

- 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 Premier Care (Plymouth) Limited against the decision of Plymouth City Council.
 - The application Ref 19/01153/FUL, dated 3 July 2019, was refused by notice dated 6 September 2019.
 - The development proposed is change of usage from office to 2 No. flats.
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on:
 - highway safety, with particular regard to the availability of parking; and
 - living conditions of future and neighbouring occupiers at Nos 80, 82 and 84 Somerset Place, with particular regard to overlooking.

Reasons

Parking

3. There are no parking spaces on the appeal site. The Council acknowledge that the number of spaces required for the proposed flats calculated with reference to the Development Guidelines SPD¹ would be 3 and that this is similar in number to that required for the existing office use. The issue appears to be that there are no spaces at all and that the highest demand for parking for residential uses falls outside of typical office hours. I note the submitted photographs showing the high demand for on street parking in the area both during the daytime and evening hours. Although there are no specific parking permit schemes in operation in the vicinity of the appeal site, it was evident that there were a similarly high number of vehicles parked on the street at the time of my site visit. The objections from local residents also highlight the parking challenges and the desire for a residents-only parking restriction to be implemented.
4. Whilst the appellant alleges that future occupants of the flats would be clients of Premier Care (Plymouth) Limited and would be unlikely to have vehicles, there is no suggestion that the C3 use of the flats should be restricted as such.

¹ Development Guidelines Supplementary Planning Document (SPD) First Review – Adopted May 2013

In any event, there would inevitably be some demand for parking for any carers of the future occupants and in the absence of any suggested limitation, I have considered the proposal on the basis of an unrestricted residential use.

5. I acknowledge that the demand for parking is greater during evenings and weekends. However, given the proximity of the site to the range of necessary daily facilities, including public transport services, and the existing shortfall of spaces to serve the current use, I consider that the proposal does not specifically conflict with JLP² Policy DEV29 or the SPD guidelines (Sections 8.1 and 8.2), neither of which differentiate between parking requirements on the basis of the periods of highest demand.
6. I also note that the limitations of the site mean that there would be no ability to provide external covered cycle storage and that at least one space should be provided to accord with the SPD guidelines. However, a planning condition could be used to seek the provision of some form of cycle storage within the communal entrance lobby were the proposal acceptable in other regards.
7. In view of this main issue, the proposals would not have a harmful effect upon highway safety or convenience and would consequently comply with, in particular, JLP Policy DEV29. This policy, amongst other things, requires that a sufficient provision is made for car parking and its management in order to protect the amenity of surrounding residential areas and ensure safety of the highway network.

Effect on neighbouring occupiers

8. The existing building has four windows at first floor level, three of which have the same generous proportions and all look towards the rear of Nos 80, 82 and 84 Somerset Place. There are also ground floor windows but the outlook from these windows is restricted by the garages and high rear boundary walls of the same properties. Given the high density of development in the surrounding area, some degree of overlooking between properties is commonplace.
9. From the evidence, the distance between the appeal building and the rear of No 82 is approximately 23 metres from window to window and 14 metres to the blank rear tenement wall. No 80 Somerset Place has a rear tenement wall with a window in it and it is approximately 19 metres from the appeal site. No 84 has a window in a rear tenement wall some approximate 20 metres away from the site.
10. The appellant indicates that the appeal building, including the first floor rooms, was most recently used as an office and that this involved up to 20 personnel being present in the office until 2200 hours on a daily basis. However, there is limited evidence in respect of the operational hours or staffing levels to support this claim.
11. The configuration of the proposal would introduce a flat with two bedrooms and an open plan kitchen/lounge area on the first floor with each room having one of the large windows to provide light and outlook for future occupants. The future occupants of the proposed first floor flat would be fully reliant on the three main windows given the absence of openings on other elevations.

² Plymouth and South West Devon Joint Local Plan (JLP) 2014 – 2034 (adopted March 2019)

12. JLP Policy DEV1 requires, amongst other things, that new development achieves satisfactory privacy for both new and existing residents. Paragraph 2.2.23 of the SPD recommends that there is a minimum distance of 21 metres between habitable room windows, and 12 metres between a habitable room and a blank elevation. As the proposal would be within 21 metres of the windows of both No 80 and No 84, it would technically conflict with the SPD guidelines.
13. I am mindful of the modest extent to which the proposal would fall short of the SPD guidelines in terms of the minimum advisable window to window distances and that the requirements of JLP Policy DEV1 are less specific. I also note that the previous use of the building as an office would have undoubtedly affected the degree of privacy enjoyed by occupants of dwellings in Somerset Place. However, this would have most likely been during daylight hours with periods of time in the evenings and weekends when the office was unoccupied. I also note that some existing streets nearby display similar or lower window to window distances, but this in itself does not justify a deviation from the suggested minimum distances.
14. Considered in the round, given the number of properties affected in this close urban situation and the high degree of reliance on the first floor windows by future occupiers of the upper flat, the proposal would result in a loss of privacy for the occupants of Nos 80, 82 and 84 Somerset Place. For similar reasons, the situation would also be harmful to future occupants of the first floor flat. The proposal therefore conflicts with JLP Policy DEV1 and would fail to adhere to guidance in the SPD.

Other Matters

15. I note that the appeal site falls within Stoke Conservation Area (CA) but that no external changes are proposed. The scheme would therefore have a neutral effect and would thus preserve the character and the appearance of the CA.

Planning balance and conclusion

16. The proposal would result in the provision of two new residential units in a sustainable location without harmful effects on highway safety. Whilst this would result in some social and economic benefits, there would also be a reduction in the economic contribution from the loss of a commercial office use. Consequently, I attribute modest weight to the benefits of the proposal.
17. The proposal would result in harm to the living conditions of the future and neighbouring occupiers and there is limited evidence to suggest that the proposal is the only means of achieving the desired outcome. Therefore, the benefits of the scheme do not amount to considerations of sufficient materiality to outweigh the identified harm and associated conflict with the Development Plan.
18. For the reasons outlined above, the appeal is dismissed.

Hollie Nicholls

INSPECTOR