



Appeal Decision

Site visit made on 22 January 2020

by J Gibson BUEP MPIA

an Inspector appointed by the Secretary of State

Decision date: 7 May 2020

Appeal Ref: APP/Y9507/W/19/3239471

Arundel House, Rumbolds Hill, Midhurst GU29 9ND

- 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 Terredor Ltd against the decision of South Downs National Park Authority.
 - The application Ref SDNP/19/02109/FUL, dated 29 April 2019, was refused by notice dated 18 July 2019.
 - The development proposed is originally described as a "Conversion of two upper floors to two flats (1x1 bed and 1x2bed). No external change to building proposed".
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of two upper floors to two flats (1x1 bed and 1x2 bed) at Arundel House, Rumbolds Hill, Midhurst GU29 9ND in accordance with the terms of the application, Ref SDNP/19/02109/FUL, dated 29 April 2019, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan (Licence No 100022432, Plotted Scale – 1:1250), Block Plan (Licence No 100022432, Plotted Scale – 1:500), Existing Ground and First Floor Plan, Existing Second Floor Plan, Proposed Ground Floor Plan (Dwg No CG-SPW-189a), Proposed First Floor (Flat 1) Plan, Proposed Second Floor (Flat 2) Plan.

Procedural Matter

2. The above description of development is from the submitted application form. Minor external works would be required at ground floor level to facilitate access to the proposed residential flats and is therefore not accurate. I have therefore determined the appeal based on the description provided on the National Park Authority's decision notice along with the details of the number of bedrooms proposed in each flat.

Main Issue

3. The main issue is the effect of the proposed development on the vitality and viability of the Midhurst Town Centre.

Reasons

4. The appeal site is a three storey building along the high street of Midhurst and is wholly used for retail purposes. The building comprises of two retail units which are separated at ground floor level. The retail unit subject of this appeal occupies part of the ground floor and the full extent of the first and second floors of the building. The other ground floor retail unit shares no internal connections to the rest of the building and does not form part of this appeal proposal. The appeal site is located within the Midhurst Town Centre and along the Primary Shopping Frontage as defined under the South Downs Local Plan (LP) (adopted July 2019).
5. Policy SD37 of the LP seeks to support the vitality and viability of the retail function of market towns and village centres. In particular, the policy emphasises that development proposals within the town centre must not harm the retail function of the centre and that the loss of retail units within the Primary Shopping Frontage will not be permitted.
6. The appeal proposal specifically seeks to convert the first and second floors of the appeal site to residential flats, with a reconfigured retail unit retained at ground floor level. Policy SD37 explicitly describes the loss of a retail unit as not being permissible, so although the retail unit would be of a reduced size it would not equate to the complete loss of a retail unit and would therefore satisfy this clause of the policy, provided it remains viable for retail purposes. Importantly, the appeal proposal would maintain the predominantly retail interface at ground floor level whilst facilitating residential development on the floors above, which is characteristic of the mix of uses along this part of Rumbold Hill. I am also satisfied that the introduction of a residential use as proposed would support the vitality and retail function of the centre by providing greater access to local businesses and services as recognised by Paragraph 85(f) of the National Planning Policy Framework (the Framework).
7. In support of the reconfigured retail unit size proposed, the appellant has reviewed the 2016 Retail Evidence Study commissioned by the Local Planning Authority¹ (LPA), which represents the most up to date evidence available. The study shows that the retail market in Midhurst has remained steady over the study period and that there is a very low vacancy rate within the centre. The appellant goes on to analyse the composition of retail units in the area and identifies several occupied retail units of a similar size or smaller to the appeal proposal, that supports their position that the proposed retail unit would remain functional with the overall makeup of the town centre.
8. Based on the evidence provided I am satisfied that the proposed retail unit would remain viable having regard for the current demand and composition of different retail unit sizes within the Midhurst Town Centre. This is generally supported by the Economic Development Service (EDS) comments submitted by the LPA which states that "certain [retail] sectors are thriving such as barbers, health and beauty salons, alternative and complimentary medicines, bars, and mobile phones...", contrary to the general decline of other retail sectors based on recent statistics². The retail uses described by the EDS would generally occupy smaller unit sizes such as that created by the appeal

¹ Carried out by Nexus Planning on behalf of the South Downs National Park Authority, to inform the South Downs Local Plan (adopted July 2019).

² Local Data Company report: "GB Retail and Leisure Market Analysis H1 2019 Update, published Sept 2019".

proposal. As such this reinforces that the proposed retail unit remains a viable prospect both for the short and long term prosperity of the town centre.

9. The LPA has suggested that a formal market demand and viability analysis is required under Policy SD37 to support the appeal proposal, and as such does not adequately demonstrate that the proposal would remain viable. However, there is no explicit trigger under Policy SD37 that requires the appellant to carry out such a prescribed analysis as the appeal site falls within a town centre. Concerns have been expressed that the significant reduction in size, resulting shop front width, irregular configuration and lack of staff facilities (i.e. toilet and kitchenette) for the proposed retail unit would be detrimental to its long term viability. No specific guidance has been provided as to what would constitute an appropriate frontage design, width or necessary staff facilities for a shop along the Primary Shop Frontage. Nevertheless, the proposed retail unit is of a comparable size to other small units in the centre, demonstrating the potential for its viability, and there are public conveniences and food outlets in walking distance of the appeal site to serve staff needs if no onsite facilities are provided. I am therefore satisfied that an appropriate retail use could reasonably occupy the proposed unit based on the evidence provided.
10. The LPA and EDS also contest that alternative commercial uses should be contemplated before a residential development be accepted over the appeal site. Whilst I acknowledge the compatibility of commercial uses within town centre locations, any such proposal would still need to satisfy Policy SD37 which restricts the outright loss of a retail unit. Notwithstanding this, I have determined the appeal before me based on the evidence provided and in accordance with relevant policies.
11. Accordingly, the proposal would not harm the vitality or viability of the Midhurst Town Centre. It would comply with Policy SD37 of the LP, which supports development proposals in town centres that do not result in the loss of a retail unit, harm the retail function of the centre and are compatible with its scale and historic nature.

Other Matters

12. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention be given to the desirability of preserving or enhancing the character or appearance of the conservation area. The appeal site falls within the Midhurst Conservation Area (CA) which reiterates its market town heritage. The appeal site has not been described as a significant building and is neither listed nor located within the setting of a listed building.
13. Whilst the current external appearance of the appeal site at ground floor level would benefit from some maintenance, the only alterations to the façade of the building would be for the proposed entrance door serving the residential flats proposed at the first and second floor levels. The minor nature of the external works proposed and the overall preservation of the external built form of the building would have a neutral effect on the CA.

Conditions

14. In allowing the proposed development I have had regard to the conditions suggested by the LPA, which the appellant has had the opportunity to comment on. Where necessary I have amended the wording of the suggested

conditions, in the interests of precision and clarity, and in order to comply with advice in the Planning Practice Guidance (PPG) and the Framework. The standard conditions setting out the time limit for implementation and the approved plans are necessary to provide certainty.

Conclusion

15. For the reasons given above I conclude that the appeal should be allowed.

J Gibson

INSPECTOR