
Appeal Decision

Site visit made on 22 May 2020

by Paul Singleton BSc MA MRTPI

an Inspector appointed by the Secretary of State for Housing, Communities and Local Government

Decision date: 28 May 2020

Appeal Ref: APP/D2320/W/20/3245510
31-33 Cunliffe Street, Chorley PR7 2BA

- 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 M&S Project Development Ltd against the decision of Chorley Borough Council.
 - The application Ref 19/00683/FUL, dated 7 July 2019, was refused by notice dated 15 January 2020.
 - The development proposed is conversion of shop into 5 one bed apartments.
-

Decision

1. The appeal is allowed and planning permission is granted for the conversion of shop into 5 one bed apartments at 31-33 Cunliffe Street, Chorley PR7 2BA in accordance with the terms of the application, Ref 19/00683/FUL, dated 7 July 2019, subject to the legal agreement which has been entered into and the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - PL 001A: Existing Floor Plans
 - PL 002C: Plans as Proposed
 - PL 003C: Existing & Proposed Elevations
 - PL 004B: Block & Location Plans as Existing
 - PL 005D: Block & Location Plans as Proposed
 - PL 006: Existing & Proposed Rear Elevations
 - 3) The external surfaces of the development hereby permitted shall be constructed in the materials detailed in the approved plans.

Procedural Matters

2. The application as originally submitted sought permission for the conversion of the property to provide 6 apartments. An amended scheme for 5 units was submitted before the application was determined and I have considered the appeal on this basis.
3. Following my review of the appeal documents I requested that the Council should confirm its view as to the need, in the event that the appeal was

allowed, for the appellant to enter into a planning obligation in relation to the payment of financial contributions for the improvement of facilities in a recreation ground close to the site. I also asked that the Council should provide a specific justification for seeking that obligation if it did consider it to be required. I have considered the further information provided by the Council and the appellant's comments on the suggested obligation.

Main Issues

4. The main issues are:

- a) Whether the proposal would provide a satisfactory standard of accommodation for the future occupiers of the proposed apartments in terms of internal living conditions and private outdoor space; and
- b) the effect on the living conditions of the future occupiers of the proposed apartments and the occupier of Number 33A Cunliffe Street with regard to noise and disturbance.

Reasons

5. The application was refused against officer recommendation after the planning officer concluded that the revised scheme, with 5 rather than 6 apartments proposed, was acceptable.
6. The reason for refusal asserts that the proposal would result in the "*over-intensification*" of the building and the Council's statement alleges that the scheme would lead to a cramped form of development. The statement acknowledges that the Council has no adopted minimum standards for internal living space and that this reason for refusal does not allege any failure to meet such standards. The concerns relate to the quality of the internal living space in terms of the levels of daylight and that some of the accommodation may feel oppressive to the occupiers. There are no minimum planning standards adopted by the Council for the control of such matters and the acceptability of the proposed accommodation is, therefore, a matter of judgement.
7. Based on my observations on my site visit I do not consider that any of the apartments would be so small as to warrant their description as cramped or oppressive spaces or to suggest that the proposal represents an over intensive use of the building. Proposed Flats 4 & 5 would have a shared living and bedroom space but this is not a wholly unusual arrangement in small, studio type flats. Both of these areas would have good levels of daylight through the first floor windows. The occupiers of these units would benefit from a storage area on the same level as the main living space and a generous dressing room at the upper level. There would, accordingly, be ample space for clothing and other storage so that the main living area could be kept relatively clear of clutter.
8. In Flat 3 the kitchen and lounge would receive daylight only from a window in the side elevation of the building. This is a first floor window which, at the time of my visit in late morning, provided a good level of daylight inside the building. The absence of nearby walls and structures outside of the window means that it also provides for a reasonable outlook given its location on the side elevation. Artificial lighting would be needed in the kitchen and lounge area at some times of the day but I do not consider that Flat 3 would be deprived of natural daylight for the majority of daylight hours.

9. The kitchen to Flat 1 would be within an area which also serves as the access into and out of the flat and the route between the lounge/bedroom and bathroom. Artificial lighting would be needed when using the kitchen for meal preparation but this is by no means unusual. The future occupiers of the unit would have the option of using part of the lounge area for dining. Natural daylight would be received via the proposed fanlight above the entrance door and the kitchen would receive some light from the lounge area which would benefit from two large windows in the front elevation.
10. The level of daylight in the kitchen area may not be ideal. However, given the overall size of Flat 1 and the generous window provision to the lounge and bedroom, this would not make the overall living conditions in that unit unacceptable. The presence of 2 large windows in the lounge/bedroom area would also provide the occupiers with a reasonable outlook from their accommodation.
11. As noted above, the Council has no adopted planning standards either in respect of the minimum size of internal living space or for levels of daylight in that internal space. In the absence of such standards my judgement is that none of the proposed living spaces would provide an unacceptable level of accommodation.
12. The first reason for refusal states that the proposal would not provide useable amenity space but the Council's statement does not explain why this is considered to be unacceptable. It is also difficult to understand how the Council concluded that this should form part of the reason for refusal when it appears not to have been identified as an issue in either of the officer reports. It would not be unusual for a residential conversion of a town centre commercial building not to include outdoor amenity space. In the absence of any evidence as to how the failure to provide such space would result in a breach of any adopted planning standards or development plan policy, I am unable to conclude that permission should be withheld for this reason.
13. The entrance and principal windows to the flat at No.33A are at the end of the passage to the side of the appeal property. I saw that this passage is already a shared space, giving access to No. 33A as well as to the garden and rear entrance to No. 35 and to the existing rear entrance to the appeal building. This area is also used by Nos. 35 and 33A for the storage of refuse bins.
14. The proposal would result in 4 of the proposed flats taking access from the passage. This would necessarily result in all of those occupiers coming and going via the passage but none of them would need or have any reason to pass No. 33A's door or windows to get to or from their homes. Hence, although there would likely be an increased number of people using the passage than might have been the case when the appeal property was in use as a shop and offices, I do not find that this would be likely to result in an unacceptable level of noise or disturbance inside No. 33A.
15. The entrance to the proposed bike/bin store would be immediately next to the entrance to No. 33A. However, it is unlikely that all the occupiers of the new flats would use this area for bike storage or would need to access the waste and recycling bins on a daily basis. Again, therefore, I do not consider that this element of the scheme would be likely to result in an unacceptable level of noise or disturbance for the occupier of No. 33A.

16. The use of the passage for access to 4 of the 5 proposed flats means that some residents would pass the entrances to other flats to gain access to their own front door. Again, there is nothing unusual in this arrangement and, with such a small number of people using that access, it is unlikely that those movements would cause significant noise or disturbance to other residents of the proposed development. The likelihood of such disturbance would also be low because there would be no ground floor windows to any of the flats on the elevation to the passage.
17. In summary, I do not find that the proposed layout would result in unacceptable living conditions for the development's future occupiers either by reason of the size and configuration of the proposed living space or of noise or disturbance from other residents of the scheme. Neither do I find that the proposal would harm the living conditions of the occupier of No. 33A Cunliffe Street by reason of noise and disturbance. Accordingly, I conclude that there is no conflict with the development plan in relation to these matters.

Other Matters

18. The appellant refers to the possibility of converting the building to residential units under permitted development rights available under the Town and Country Planning (General Permitted Development) (England) Order 2015. In view of my finding that the appeal proposal would not result in unacceptable harm to living conditions or conflict with the development plan, I do not need to reach a conclusion on the availability of that potential fall back option.
19. The third party representations raise concerns about the lack of parking provision for the proposed apartments. However, the proposed development is in an accessible location, within walking distance of many shops, services and public transport facilities, such that future residents would not be dependent on the use of a car for their day to day needs.

Planning Obligation

20. A legal agreement, prepared under Section 106 of the Town and Country Planning Act 1990, has been signed by the parties. The agreement includes a single obligation on the part of the appellant to pay a sum of money for the upgrading of outdoor recreational facilities within a nearby recreation ground.
21. The additional information provided by the Council sets out the policy background to the request for the proposed financial contribution. It explains that the Council considers that schemes of 5 apartments should not be treated as exempt from that policy. Based on that information I am satisfied that there is a policy justification for the proposed obligation and that this meets the relevant tests for the use of such obligations as set out in paragraph 56 of the National Planning Policy Framework.

Conditions

22. Conditions have been attached which require that the development be carried out in accordance with the approved plans and that the external materials specified in the application should be used. I have not adopted the full wording of Condition 3 as set out in the officer report as I do not consider the proposed tailpiece providing for approval of alternative materials to be appropriate.

Conclusions

23. For the reasons set out above I conclude that the appeal should be allowed and that planning permission should be granted subject to the conditions listed at the start of this decision.

Paul Singleton

INSPECTOR