The Planning Inspectorate

Appeal Decision

Site visit made on 16 June 2020

by Roy Merrett Bsc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 July 2020

Appeal Ref: APP/Z2505/C/18/3219819
Land at (first floor flat) 35A Tunnard Street, Boston PE21 6PL

- 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 Alistair Arundell, AA Properties Ltd, against an enforcement notice issued by Boston Borough Council.
- The enforcement notice was issued on 7 December 2018.
- The breach of planning control as alleged in the notice is Without planning permission, the material change of use of the land to a hotel (Class C1 of the Town and Country Planning (Use Classes) Order 1987).
- The requirements of the notice are Cease the unauthorised use of the building as a hotel.
- The period for compliance with the requirements is 28 days.
- The appeal is proceeding on the grounds set out in section 174(2)(a) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed, the enforcement notice is quashed and planning permission is granted in the terms set out below in the Formal Decision.

Preliminary Matters

1. There is no dispute between the parties that the unauthorised development, though described as a hotel, specifically comprises two letting rooms with en-suite facilities. It is apparent from the appellant's representations that the rooms provide overspill accommodation in relation to a nearby existing hotel.

2. The appeal site is part of a two-storey semi-detached Victorian building. The Council has identified the appeal site as the 'first floor flat'. The appellant, within his statement, has referred to minor alterations to the first floor of the property to provide two bedrooms. From this information I am therefore satisfied that the development is undisputed to relate to the first-floor area of the property.

3. The Council has not referred me to any specific policies within its adopted development plan (South East Lincolnshire Local Plan 2019) that the development in this case is considered to be in conflict with.

The appeal on ground (a)

Main Issues

4. The appeal on ground (a) is that planning permission should be granted. The main issues are the effect of the development on i) the supply of housing in the

Borough; ii) the character of the street and the wider the Boston Conservation Area (CA) and iii) the living conditions of nearby residents with particular regard to noise disturbance.

Reasons

Housing supply

5. The Council states within the officer report that the development has not resulted in conflict with policies in the development plan, which now comprises the South East Lincolnshire Local Plan 2019 (SELLP). Nor is it deemed to be in conflict with any specific policies within the National Planning Policy Framework (the Framework). The Council's concern is that the development would run counter to the aims of the Framework and the SELLP, in that both seek to encourage more housing.

6. Notwithstanding this, at the time of the officer report the Council acknowledged that it was unable to demonstrate a 5-year supply of housing land. In the meantime, it confirms, undisputed by the appellant, that it is now able to demonstrate a 5-year supply of housing land.

7. It is uncertain from the information provided as to the number of flats that have been lost as a result of the development in this case. The Council's officer report refers to the site previously being in operation as two flats, whereas the reasons given for issuing the notice refer to the development resulting in the loss of one unit.

8. In light of the Council now being able to demonstrate a five-year supply of housing land, even if the development has resulted in the loss of two flats, I am not persuaded that this is so significant as to harm the supply of housing within the Borough.

Character including Conservation Area

9. Tunnard Street is a relatively wide, linear road consisting of large, two-storey Victorian predominantly semi-detached properties, constructed in red brick. The street appears to be predominantly residential in nature, although the appeal site is very close to a variety of town centres uses. Part of the extensive CA, the street has a spacious feel, complementing the open spaces of the nearby Central Park and historic town centre. The street is verdant and relatively quiet, despite its reasonably central location.

10. The development has not resulted in any physical alteration to the exterior of the building, such that the relatively uniform built form of the street has been preserved. In addition, despite being a business-related use and therefore different to the predominant residential use of the street, it seems to me that the level and pattern of comings and goings and the nature of use, in relation to the two letting rooms, taking into account guests and servicing, would not be significantly different to how the site was previously used, even if there was only one flat in existence.

11. The Council considers that the heritage impact would not be substantial and that independently this would not lead to refusal of planning permission. I agree. In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990 I have a statutory duty under section 72(1) to pay special attention to the desirability of preserving or enhancing the character or

appearance of the CA. For the reasons set out above, the development would preserve the character of the CA. Accordingly I conclude that the development does not cause harm to the character of the street or the wider CA.

Living Conditions

12. The Council in considering the impact of the development, has referred to its effect on occupiers of the ground floor flat and neighbouring residents, concluding that there would be moderate but not substantial harm caused to amenities.

13. As set out above it seems to me that the level and pattern of comings and goings and the nature of use, in relation to the two letting rooms, taking into account guests and servicing, would not be significantly different to how the site was previously used, whether this was as one or two flats.

14. The main front entrance to the letting rooms is offset from the adjoining property to the south (No 33) by several metres and from the adjacent building to the north (No 37) by a substantial gap. A side facing window in the gable of the appeal site, at first floor level, does not directly oppose any similar window in the gable of the adjacent property. I have not been made aware of any complaints or objections from nearby residents that they are suffering harm to their living conditions as a result of the development.

15. For the above reasons I therefore find that the development would not result in harm to the living conditions of adjoining or nearby residents with particular regard to noise disturbance.

Other Matters

16. I have considered the argument that the grant of planning permission would set a precedent for other similar developments. However each application and appeal must be determined on its own individual merits and a generalised concern of this nature would not in itself justify withholding planning permission in this case.

17. I concur with the view that the development would help to support tourism in the area, and that as such would bring some economic benefits, albeit relatively minor. Nevertheless, this consideration weighs in favour of the development.

18. I am mindful that the Framework states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan, with town centres being the preferred location.

19. As a hotel, the development would be regarded as a main town centre use. However it is not the Council's case that the development would fail to satisfy such a sequential test on the basis of a more central site being available. In any event the Council acknowledge that the site is located close to the town centre. The proximity to and accessibility of the town centre was also apparent from my visit.

Conclusion

20. I have not found that the development results in harm in this case. I note that the Framework advises that development proposals that accord with an up-to-

date development plan should be approved without delay. I consider a condition restricting the number of lettable rooms to two is required, in order to protect the living conditions of residents. Neither the Council nor appellant has objected to the imposition of such a condition, in the event of the appeal being allowed.

21. For the reasons given above I conclude that the appeal should succeed on ground (a) and planning permission will be granted. The appeal on ground (g) does not therefore need to be considered.

Formal Decision

22. The appeal is allowed, the enforcement notice is quashed and planning permission is granted on the application deemed to have been made under section 177(5) of the Act as amended for the development already carried out, namely the use of the land at (first floor flat) 35A Tunnard Street, Boston PE21 6PL, as shown on the plan attached to the notice, for the material change of use of the land to a hotel (Class C1 of the Town and Country Planning (Use Classes) Order 1987), subject to the following condition:

    1) At no time shall the number of lettable rooms in the development, hereby approved, exceed two.

Roy Merrett

INSPECTOR