



Appeal Decision

Site visit made on 9 June 2020

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 06 August 2020

Appeal Ref: APP/P4605/W/19/3243494

Globe Inn, 35 Blews Street, Birmingham B6 4HN

- 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 CR38TIV3 HOLDINGS LTD against the decision of Birmingham City Council.
 - The application Ref 2019/08375/PA, dated 9 October 2019, was refused by notice dated 11 December 2019.
 - The development proposed is the change of use from public house (Use Class A4) and dwellinghouse (Use Class C3) to guest house (Use Class C1) and the retention of external alterations to the fenestration.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Based on the appeal plans and documentation, the appeal site included a self-contained dwelling and also a flat. The dwelling has been referred to as self-contained whilst the flat has been considered as ancillary to the main public house use. The proposal has been considered on this basis.

Main Issues

3. The main issues are (a) whether the proposal would affect the employment and economic regeneration of the designated industrial employment area, the effect of the proposal on (b) the living conditions of the occupiers of the guest house, having regard to noise and disturbance, and (c) the character and appearance of the area.

Reasons

Employment and economic regeneration

4. The appeal site comprises a vacant early 20th Century Public House and residential building which are located at the junction of Blews Street and Manchester Street. The existing plan shows a number of individual rooms at ground and first floor across the whole of the building. In 2017, there was an enforcement notice appeal that was dismissed in respect of first floor accommodation used as House in Multiple Occupation (HMO) at the public house. The site is surrounded by established industrial uses and is located within the Gun Quarter and Core Employment Area designated under the Birmingham Development Plan (BDP) 2017.

5. Under BDP policy GA1.3, new development must support and strengthen the distinctive character of the areas surrounding the City Centre, raising their overall quality, offer and accessibility. The policy refers to the City Centre as formed by seven Quarters with the Core at its heart. For the Gun Quarter, the area's important employment role and industrial activity must be maintained, complemented by a mix of uses around the canal and improved connections to neighbouring areas.
6. For BDP policy TP19, Core Employment Areas will be retained for employment use and will be a focus for economic regeneration activity and additional development activities likely to come forward during the plan period. For this purpose, employment use is defined as Use Classes B1b (Research and Development), B1c (Light Industrial), B2 (General Industrial) and B8 (Warehousing and Distribution) and other uses appropriate for industrial areas such as waste management, builder's merchants and machine/tool hire centres. Applications for uses outside of these categories will not be supported unless an exceptional justification exists. Parties have agreed that the proposed guesthouse use would not be an employment use defined under this policy. Therefore, the acceptability of the proposal rests on its justification.
7. The public house has been vacant since 2012. The proposal would bring back an empty building into use and provide low-cost, short term guest accommodation for workers and visitors to the surrounding employment area. The accommodation should be attractive to contract workers, employed by local businesses, and tourists. It would be situated close to a major traffic route in a predominately commercial area which is well served by public transport. The development would be within comfortable walking distance of a canal.
8. There is economic benefit for this type of use. However, BDP policy GA1.3 accepts mix of uses around the canal which the guesthouse would not be located in. Importantly, there is little evidence that other employment uses, suitable for the building, in accordance with the policy, have been explored. The only limited evidence is that in 2014, a planning application was refused for a change of use of the public house to offices, workshops and retail unit. However, the practicality and acceptability of other uses under the policy for this building has not been considered or explored based on the appeal documentation before me. Such a consideration is significant given the emphasis of the policies on the importance of employment use and economic activity in the area, and those uses that fulfil this purpose.
9. At Jacksons Garage, planning permission has been granted for the change of use of the first floor accommodation to flats in HMOs and at Shanahans, planning permission was granted for the change of use of a pub/bar to a hotel use. However, they were before the adoption of BDP and the employment policies before me. In respect of the Jacksons Garage development, the application description also indicated the use of the first floor as totally residential as opposed to being part residential and public house in this appeal proposal. Consequently, there are material differences between these schemes and that before me.
10. The appellant has also drawn my attention to other hotels and guest house type uses within another Core Employment Area. However, little detail has been submitted to enable me to assess whether BDP employment policies, as

previously detailed, were considered and how they were applied. In the absence of this, the exceptional justification and relevance to the proposal before me is difficult to assess. Inevitably proposals will differ in the nature and context, especially in respect of exceptional justification required under the policy which is likely to be unique to the scheme being considered. In any case, every proposal has to be considered on its particular planning merits.

11. The use of the building as a Public House and self-contained dwelling would not fall within any of the prescribed uses under the BDP employment policies. However, the submitted plans show that the building has been divided up into a number of rooms which along with the size of the building would indicate a greater number of staying residents. Each of these residents would require a basic level of amenity in terms of sleeping and relaxation during their stay. Therefore, there are marked differences between the existing and the proposed use. Accordingly, the existing use would not justify the proposal.
12. In conclusion, the development would not meet the exception justification test within the policy and it would undermine the long term economic role of the Gun Quarter and Core Employment Area for all these reasons. Accordingly, the proposal would be contrary to policies GA1.3 and TP19 of the BDP.

Living conditions

13. The appellant's Noise Assessment (NA) indicates that acceptable living conditions could be achieved for the use, subject to satisfactory glazing and ventilation.
14. The NA has been carried out in accordance with professional standards and policy, by a consultant with expertise in the acoustic environment. It does include unattended monitoring, but the monitors were positioned high up on the building's façade and the weather conditions for the period of operation were not adverse. In terms of Rating Sound Level, the NA has made reasonable assumptions about additional values (Rating Penalty Assessment) and the mitigation effect of facades, glazing and ventilation, on achieving satisfactory living conditions for residents. The NA has been undertaken on the basis of a Class C3 residential use being taken as a worst-case scenario indicator of living conditions.
15. However, the NA makes assumptions about operating times and uses of surrounding industrial uses, based on what was observed, but there is no evidence that there are restrictions on the hours of industrial use within the area. In such an industrialised area, it would be reasonable to expect that uses and operating times would be unpredictable and could change over time in order to satisfy market demand. Industrial activity working beyond the assumed hours could lead to noise and disturbance that would be disruptive to guest house residents which is not accounted for within the NA.
16. BDP policy TP25 supports tourism and cultural facilities that reinforce and promote the city as a centre for these types of facilities. However, support is dependent upon such facilities being well-designed. The proposal would not be well-designed because mitigation measures would not satisfactorily address the living conditions of residents having regard to noise and disturbance for the reasons indicated. Accordingly, the proposal would be contrary to this policy. BDP policy TP28 is not relevant as it relates to housing and not to guesthouses.

Character and appearance

17. The external alterations to the ground floor fenestration introduce window detailing similar to the original historic pub façade. The symmetry and bays lining between windows are retained. With alterations, the original design of the building is not significantly changed. Therefore, the proposal would not harm the character and appearance of the area. Accordingly, the proposal would comply with policy PG3 of the BDP.

Other matters

18. The proposal would also provide surveillance over the neighbouring streets. However, there is no evidence of crime and anti-social behaviour being a particular problem and therefore, the benefits would be small.

Development Plan Balance

19. Residents of the guesthouse would have good accessibility to services and facilities using sustainable transport. BDP policy PG3 supports the efficient and effective use of existing buildings in achieving BDP's strategic goals. Both BDP policies TP21 and TP24 details the extent/diversity of growth sought within Birmingham City Regional City Centre, including tourist uses.
20. However, the plan splits the city centre into seven Quarters with the Core at its heart, within each quarter permitted varying degrees of change. For the Gun Quarter, BDP policies GA1.3 and TP19 emphasise that area's important employment and economic activity must be maintained. BDP policy TP19 sets a test of exceptional justification for uses other than those specified to be supported. Therefore, the policy for the Gun Quarter is quite specific and focussed on employment retention and as such, the employment BDP policies GA1.3 and TP19 are of strategic and overriding importance.
21. Additionally, there would also be harm to the living conditions of residents in conflict with BDP policy TP25. Therefore, even with the proposed noise insulation measures, the guest house use, would be likely to inhibit the employment uses and economic activity within the area over time which planning policies encourage. For all these reasons, there would be conflict with the development plan taken as a whole and there are no material considerations to outweigh that finding.

Conclusion

22. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Jonathon Parsons

INSPECTOR