



Appeal Decision

Site visit made on 11 August 2020

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2020

Appeal Ref: APP/N1920/W/20/3250899

Latimer House, 193 High Street, Potters Bar, Hertfordshire EN6 5DA

- 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 Mrs Patricia Rowatt against the decision of Hertsmere Borough Council.
 - The application Ref 19/1202/FUL, dated 12 July 2019, was refused by notice dated 18 October 2019.
 - The development proposed is temporary change of use of residential apartment to A2 (financial planning).
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Decision

1. The appeal is allowed and planning permission is granted for temporary change of use of residential apartment to A2 (financial planning) at Latimer House 193 High Street, Potters Bar, Hertfordshire EN6 5DA in accordance with the terms of the application, Ref 19/1202/FUL, dated 12 July 2019 and the plans submitted with it, subject to the following conditions:
 - 1) The use hereby permitted shall be for a limited period being the period of 12 months from the date of this decision. The use hereby permitted shall be discontinued and the property restored to its former use on or before the expiry of this period.
 - 2) The premises shall only be used for the use hereby permitted between the hours of 0900 to 1700 Mondays to Fridays, and not at all on Saturdays, Sundays or Bank Holidays.

Procedural Matters

2. The description of development in the banner heading and formal decision above is taken from the Council's decision notice as this more succinctly and accurately describes the proposal than the longer description which was entered on the application form.
3. The application form indicates that the temporary use applied for commenced on 24 June 2018, and I have determined the appeal on that basis.

Main Issues

4. The main issues are:
 - i) the effect of the proposal on the supply of housing; and
 - ii) the effect of the proposal on the living conditions of the occupiers of neighbouring dwellings with particular regard to noise and disturbance.

Reasons

Supply of Housing

5. The appeal proposes to change the use of a two-bedroom flat on the second floor of a building in mixed commercial and residential use to a financial planning premises under Class A2 (professional and financial services) of the Town and Country Planning (Use Classes) Order 1987 for a temporary period.
6. On making the application to the Council, the appellant referred to the temporary change of use as being sought until retirement in October 2020. However, at appeal stage, the appellant has confirmed that a 12 month period from the date of my decision is sought, highlighting the impact of the COVID-19 pandemic on the long-term future of the business and the ability to secure alternative accommodation.
7. The Planning Practice Guidance indicates circumstances where a temporary permission may be appropriate. These do not form a closed list, but include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change at the end of that period¹. I have no reason to doubt the appellant's comments regarding the effect of the COVID-19 pandemic on the operation of the business and the ability to seek alternative premises. This is a temporary situation though, and the prospect of securing new premises is likely to improve as circumstances change. I find that the evidence before me supports that a temporary permission could be appropriate in this instance in the event that the appeal were to be allowed. In my view, a 12-month period would strike a realistic balance, and would accord with the period outlined within the Council's suggested conditions.
8. Policy SADM3 of the Hertsmere Local Plan Site Allocations and Development Management Policies Plan 2016 (SADMP) sets out that proposals which would result in the net loss of satisfactory residential units will not be permitted. Whether or not the flat is the appellant's primary residence, the submitted evidence does not lead me to find that it fails to offer satisfactory accommodation.
9. The appellant refers briefly to previous commercial use of the first floor of Latimer House and to temporary commercial use of one of the second-floor level properties. However, the Council advises that the temporary commercial use was permitted in 2003 which pre-dates the SADMP, and that the first-floor level was originally in commercial use prior to its conversion to dwellings. The circumstances are not therefore directly comparable to those which apply in this appeal. I have, in any case, reached my own conclusions on the appeal proposal with regard to the evidence before me.
10. I accept that there is no guarantee that the dwelling would be occupied should the appeal fail, and indeed note that the appellant advises this is unlikely. Nevertheless, the proposal would still result in a loss of the dwelling from the overall supply of housing within the borough, albeit that this loss would be for a temporary period. It would therefore conflict with Policy SADM3 of the SADMP. However, the harm to the supply of housing would be limited by the relatively short period during which the property would not be available as a dwelling.

¹ Paragraph: 014 Reference ID: 21a-014-20140306

Living Conditions

11. The appellant advises that the proposed use is mainly administrative comprising computer, filing and telephone work and that it employs up to 3 people, although 2 are present only part of the time. Fairly limited operating hours are proposed between 0900 and 1700 Monday to Friday, and not at all on weekends or bank holidays and I agree with the Council that this could be controlled by a planning condition.
12. There are residential neighbours below and adjacent to the appeal site within Latimer House. However, there is no substantive evidence before me to suggest that the proposal would inevitably cause unacceptable levels of noise or disturbance for the occupants of the adjoining dwellings.
13. The entrance to the appeal property from the external walkway is not shared by any other residential occupiers. Comings and goings are likely to be modest in number as a result of the nature of the proposed use and the fairly small size of the property. Moreover, they would be limited by the proposed hours of use to the daytime when susceptibility to activity would be lower and when neighbouring occupiers are also more likely to be away from home. Similarly, the presence of staff at the site during the day would increase surveillance during hours where neighbouring occupiers may be away, and given the small scale of the operation and numbers of staff and likely visitors, I am not persuaded there would be any tangible harm to security.
14. In this context, I see no reason that the development would result in noise, disturbance, nuisance or loss of privacy to any neighbouring occupiers. Moreover, I have not been provided with any evidence of complaints regarding the use which I note commenced in June 2018 and this provides some support for my conclusion in this regard.
15. For these reasons, I am satisfied that the proposal would not harm the living conditions of neighbouring occupiers. As a consequence, I conclude on this main issue that the development would comply with Policy SADM30 of the SADMP and Policy SP1 of the Core Strategy 2013 which include, amongst other things, a requirement that development does not create an unacceptable level of risk and that it has a limited impact on neighbours including in terms of privacy and nuisance. The Council's reason for refusal additionally cites policy SADM3, but this refers to residential developments, and in the absence of provisions relating to factors with a bearing on living conditions for occupiers it seems to me to be of more limited relevance here.

Planning Balance

16. The proposal would conflict with Policy SADM3 of the SADMP. However, notwithstanding this conflict, the harm would be limited by the relatively short period across which the property would not be available to contribute to the supply of housing within the area, and there is no substantive evidence before me that the proposal would significantly undermine the Council's ability to meet housing targets or requirements.
17. The appellant has highlighted difficulty in finding alternative premises within the area, although no substantive evidence of a lack of available suitable accommodation has been presented. Be that as it may, the proposed use would help to meet the needs of the financial planning business, sustaining the

enterprise and employment of 2 staff from the site while arrangements to secure alternative accommodation are progressed.

18. The National Planning Policy Framework (the Framework) advises that significant weight should be placed on the need to support economic growth and productivity taking into account both local business needs and wider opportunities for development. I recognise that this purpose sits alongside the Framework's objective to significantly boost the supply of housing, but it seems to me to be of particular importance in the wake of the economic effects of the COVID-19 pandemic.
19. The employment and economic benefits of the proposal would be qualified by the fairly small size of the commercial use on the site. Nevertheless, I give these matters significant weight which I find would outweigh the limited harm caused by the temporary loss of the dwelling from the supply of housing, and the conflict with SADMP Policy SADM3.

Conditions

20. I have considered the conditions proposed by the Council having regard to the tests set out at paragraph 55 of the Framework. Where necessary, I have amended them for the sake of clarity and precision. For the reasons outlined above, a condition is necessary to limit the duration of the change of use to a temporary period of 12 months from the date of this decision. Conditions relating to the hours during which the use may take place and numbers of staff on site are necessary in the interests of the living conditions of neighbouring occupiers, although for clarity I have amended the suggested hours condition in line with the application form to refer specifically to Saturdays. However, given the scale of the appeal site, the nature of the use and my findings on the main issues, I see no reason that it would be necessary or reasonable to restrict the number of employees and so I have not imposed this condition.

Conclusion

21. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications are determined in accordance with the development plan unless material considerations indicate otherwise. The proposal would result in the loss of a dwelling, albeit for a temporary period, and would conflict with Policy SADM3 of the SADMP. However, the harm would be limited, and I find in this case that material considerations outweigh the conflict and justify a decision other than in accordance with the development plan.
22. For the reasons given above, I therefore conclude that the appeal should be allowed on the basis of a 12-month temporary planning permission only.

J Bowyer

INSPECTOR