



Appeal Decision

Site visit made on 14 September 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 September 2020

Appeal Ref: APP/Q3305/W/20/3255237
17D Sadler Street, Wells BA5 2RR

- 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 Mr M Taylor against the decision of Mendip District Council.
 - The application Ref 2020/0404/FUL, dated 23 February 2020, was refused by notice dated 8 June 2020.
 - The development proposed is the change use of first floor to residential (C3), with associated alterations.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. At the appeal stage an alternative internal layout for the proposed flat has been submitted. This shows separate bedroom, sitting room, bathroom and kitchen areas. I have had regard to this plan as an option for the layout were the appeal to be allowed.

Main Issue

3. The main issue is whether the development would provide acceptable living conditions for future occupiers having particular regard to the form and layout of the accommodation and the relationship to adjoining commercial uses.

Reasons

4. The proposed flat would be small but the two reasonably sized windows that face the courtyard would help ensure that the main living accommodation received adequate natural light. The reasonably high ceiling would give some feeling of space to the accommodation and the kitchen and bathroom could be located at the rear where there is an existing roof light. The plans show that access to the first floor could be provided so that the residential use could operate independent of the ground floor use.
5. The flat would not have any external amenity space. However, the accommodation would be in the centre of Wells with ready access to open spaces, such as the Cathedral Green nearby. Furthermore, the occupants would be within easy walking distance of a wide range of local services and facilities. Accordingly, having regard to all these matters the accommodation would have a form and layout appropriate to the local context.

6. The adjoining courtyard is reasonably narrow and the buildings accommodate a range of commercial uses. Most are health and wellbeing related uses and would be generally compatible with a residential use on the first floor of the appeal site. However, opposite the site there is a ground floor restaurant with a canopy covered outdoor seating area. The evidence indicates that there is no planning condition restricting hours of operation.
7. It is accepted that town and city residential accommodation may experience some general urban and night life noises yet can often successfully cohabit an area. However, in this case the first floor windows, including the bedroom accommodation, would overlook parts of the seating area and be reasonably close to the main entrance door. The comings and goings from the restaurant, and the general activity from the seating area would, in all likelihood, generate some noise and related disturbance and this could be in the evening or potentially later.
8. The first floor area presently has single glazed windows and the normal day to day activities from the restaurant are likely to disturb the occupants of the flat because of its location on the other side of the reasonably narrow courtyard. If the restaurant was to operate late into the evening this could be at a time when occupiers of the flat may be trying to sleep. While it may be possible, for instance, to secondary glaze the windows, the submissions do not present convincing and comprehensive technical evidence to demonstrate that the noise environment from the restaurant activities could ensure satisfactory living conditions for the occupiers of the flat. Consequently, it would not be reasonable to attach a planning condition to try to address this matter at a later stage.
9. The National Planning Policy Framework (the Framework) sets out that decisions should ensure that developments create places with a high standard of amenity for existing and future users. I have found the living conditions would be unsatisfactory and, therefore, I am not persuaded by the argument that the quality of the accommodation, and whether some occupiers may be willing to accept the overall circumstances, should be considered as a matter of personal choice.
10. In principle, the proposed flat would accord with the Framework policy to promote and support the development of under-utilised land and buildings. There would be social and economic benefits from the delivery of an additional unit of low cost accommodation utilising this vacant space, and helping in a small way with the vitalisation of the city centre. However, the Framework also requires that decisions should ensure that new development can be integrated effectively with existing businesses and community facilities, and that those existing uses should not have unreasonable restrictions placed on them as a result of development permitted after they were established.
11. Because of the likely noise environment, I am not satisfied that the proposed flat could be integrated successfully with the adjoining uses in the particular circumstances of this case. To allow the new residential use may lead to complaints and this could potentially lead to unreasonable restrictions placed on the operation of the restaurant use. I appreciate that there are other residential uses in the courtyard area, however, these appear to be further away from the restaurant and do not have the same close relationship as the appeal site.

12. In the light of the above analysis, while the form and layout of the accommodation would be acceptable, I conclude that the future occupiers of the flat would not be provided with satisfactory living conditions because of the relationship to the adjoining commercial business. Accordingly, the proposal would not comply with Policies DP7 and DP8 of the Mendip District Local Plan Part 1: Strategy and Policies 2006-2029 (December 2014) and the Framework which seek, notably, to protect the amenity of users of neighbouring buildings and land uses, and provide a satisfactory environment for current and future occupants.
13. For the reasons given above, the scheme does not comply with the development plan when considered as a whole and there are no material considerations that outweigh the identified harm and associated development plan conflict. I therefore conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR