



Appeal Decision

Site visit made on 27 August 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2020

Appeal Ref: APP/P1425/W/20/3250238

Kendal Court, Unit 6, Railway Road, Newhaven, BN9 0AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Dr Nigel Kennedy of Sussex Property LLP against Lewes District Council.
 - The application Ref LW/19/0839, is dated 19 November 2019.
 - The development proposed is erection of three storey extension to existing residential building to provide additional eight studio flats (C3).
-

Decision

1. The appeal is dismissed and planning permission for erection of three storey extension to existing residential building to provide additional eight studio flats (C3), is refused.

Procedural Matter

2. The Council did not issue a decision on the planning application but provide putative reasons for refusal with its statement of case. I have had regard to these in establishing the main issues in this appeal.

Main Issues

3. The effect of the proposal on the living conditions of existing residents, with particular regard to noise and disturbance; and on the character and appearance of the area.

Reasons

Living Conditions

4. The host building is a former commercial property, recently divided into around 60 small flats. As such, it is much more intensively occupied than a typical residential development of this size, which would usually provide a broader mix of unit sizes including larger housing, and amenity space.
5. It is evident from the objection letters that this has resulted in significant levels of noise and disturbance within and around this building, exceeding that which might ordinarily occur in a typical block of flats. Amongst other things, reference is made to unwanted disturbance from regular visits to the site from the emergency services due to instances of anti-social behaviour. This is corroborated by the consultation response from the Police.

6. The appellant acknowledges this situation and does not dispute that the existing building has resulted in amenity issues. In these circumstances, permitting an extension comprising 8 more small flats has the potential to intensify these existing issues, to the detriment of local amenity.
7. The extension would provide an office, in addition to other communal space. However, the presence of staff, even on a 24-hour basis, would not inevitably stop the disturbances from occurring. Much depends on the effectiveness of the management measures employed. However, the detail provided on this is very limited. It does not demonstrate with certainty that the noise and disturbance would be managed at an acceptable level, were permission to be granted.
8. The acceptability in principle of the proposal turns on this matter. In the absence of convincing evidence demonstrating that the development could be managed effectively, it would not be reasonable to deal with this through a planning condition requiring the subsequent approval of a management plan. Whilst conditions could secure other features such as soundproofing and physical security, it has not been clearly demonstrated that this would address the underlying issues described above.
9. The proposal is therefore likely to result in unacceptable harm to the living conditions of existing residents, through additional noise and disturbance. It conflicts with policy DM25 of the Lewes District Local Plan Part 2 (2020) ("Local Plan") which, amongst other things, requires that development does not lead to an unacceptable adverse impact on the amenities of neighbouring properties in terms of noise or activity levels.

Character and Appearance

10. The existing building has a large, broadly rectangular plan form and sits back from the road. There is residential development to the south, directly fronting on to the road, and a variety of scattered commercial uses around the site. To the west is the railway and ferry terminal. The surrounding area therefore has a fragmented character and appearance, with a maritime influence.
11. The extensions proposed would create an enlarged building that has a staggered frontage facing directly on to the road, 3 storeys in height, and continuing the frontage development evident to the south. This would be broadly consistent with the approved designs for surrounding development sites facing Railway Road. The extension would have a warehouse style aesthetic, partially clad in weatherboarding. This reflects the maritime and commercial feel of the area and would be attractive to look at.
12. Consequently, the proposal would help to embed a greater degree of visual coherence to the fragmented built environment found along this road. The appearance of the Railway Road elevation would be improved. This outweighs the concerns expressed about the total bulk of the extended building. Given the dense, urban location of the scheme, no significant harm would arise through the proximity to the road and the fact the building abuts the northern boundary of the site. The staggered raising in height across the front of the development would have minimal effect on the wider surroundings. No part of the building would be overbearing or unduly dominant.
13. As such, there would be no harm to the character and appearance of the area. There is no conflict with policies ES1 and D1 of the Newhaven Neighbourhood

Plan (2019) and policy DM25 of the Local Plan, which, amongst other things, seek to achieve good design that responds sympathetically to its surroundings.

Other Matters – Parking and Highway Safety

14. The Council also raise concerns in relation to the parking demand that may be generated by this development, which involves the loss of a small parking area. However, the site is located close to the town centre and public transport links, so by its nature it is unlikely to generate much parking demand. Whilst on-street parking is limited, the roads around the site are quiet and traffic is occasional. Any additional vehicular movements generated by future occupants or visitors accessing the development or searching for parking spaces could be absorbed without harm to the road network.
15. Given the likely level of vehicular movements in to and out of the enlarged development, the width of the access and visibility provided would be adequate to provide safe access. This could, if necessary, be secured through planning conditions ensuring the cycle parking area does not encroach into the visibility splays. Overall, the parking and access arrangements are appropriate. There would be no harm to either the living conditions of existing residents or highway safety in this respect.

Planning Balance

16. The proposal would provide a total of 8 additional units, reflecting a longstanding housing need for such accommodation, and supported by local and national planning policies¹. The letters of support indicate that there is a strong demand for such housing. The flats would meet established minimum national standards for such residential units and would provide a satisfactory standard of living accommodation were they to be occupied by a single person. The proposal would make effective use of land, being in an accessible location in relation to public transport, services and employment opportunities. The appearance of Railway Road would be improved, supporting the regeneration objectives for this part of Newhaven.
17. These factors weigh significantly in favour of the proposed development. However, they do not overcome the risk of harm to the living conditions of existing residents, through noise and disturbance. The National Planning Policy Framework requires that new development achieves a high standard of amenity for existing residents and this would not be achieved here. I attach substantial weight to the harm that may arise, in consequence. The proposal therefore conflicts with the development plan, when it is considered as a whole, and there are no other considerations that outweigh this finding.

Conclusion

18. Whilst the proposal is acceptable in terms of the effect on the character and appearance of the area, there would be unacceptable harm to the living conditions of existing residents through likely noise and disturbance. The appeal should be dismissed.

Neil Holdsworth

INSPECTOR

¹ As listed out in the planning statement, submitted with the application.