



Appeal Decision

Site Visit made on 3 December 2020

by A M Nilsson BA (Hons) Dip TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 December 2020

Appeal Ref: APP/M3455/W/20/3259486

75-77 Church Street, Stoke, Stoke-on-Trent ST4 1DQ

- 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 Tariq Malik against the decision of Stoke-on-Trent City Council.
 - The application Ref 65429/FUL, dated 2 June 2020, was refused by notice dated 19 August 2020.
 - The development proposed is change of use to self-contained aparthotel and room for owner/staff.
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Decision

1. The appeal is allowed and planning permission is granted for change of use to self-contained aparthotel and room for owner/staff at 75-77 Church Street, Stoke, Stoke-on-Trent, ST4 1DQ in accordance with the terms of the application, Ref 65429/FUL, dated 2 June 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed First Floor Plan (also showing Existing First Floor Plan, Location Plan and Site Plan), Plan ref: 1295/A2/02B, Scale: 1:100, 1:200, 1:500, 1:1250, Dated: 2/07/2020, Received by the LPA: 2/07/2020.
 - 3) The room shall not be occupied other than as an aparthotel (Class C1). The accommodation shall not be used as the sole or main residence of any of the occupiers. No person shall occupy the aparthotel for a continuous period of more than 3 months.

Main Issues

2. The main issues are the effect of the proposed development on 1) the living conditions of future occupants/users and 2) the living conditions of occupants of the adjacent flats with regard to noise, disturbance and security concerns.

Reasons

Living conditions of future occupants/users

3. The appeal site comprises part of the first floor of 75-77 Church Street which is a two-storey building with roof level accommodation on a corner site within

Stoke Town Centre. The remainder of the first floor comprises of residential flats.

4. The appeal proposal is to change the use of a landlord's office and storeroom to an aparthotel. The Council refer to such a use being within use class C1. Uses within this class include premises which provide a room as temporary accommodation on a commercial fee-paying basis. Short-term self-contained accommodation, such as aparthotels fall within this class. From the evidence before me, I have no reason to disagree that such a use would constitute a use within use class C1.
5. The Council, however, consider that the proposed development does not fall within use class C1 but is considered to comprise a single dwelling-house within use class C3. For the purposes of considering the effect of the proposed development on the living conditions of future occupants/users, the Council considered the application on the basis of the proposal being within use class C3.
6. The Council's view is largely based on the relevant planning history, the lack of communal facilities that would be provided and other appeal decisions. The fact that the appellant has previously unsuccessfully applied for planning permission to use the premises for residential (use class C3) does not alter the development that is before me, which is for an aparthotel, constituting a use within use class C1. Although the unit would not have access to facilities such as a restaurant or bar does not lead me to conclude that it is not capable of functioning as an aparthotel, where the management of the premises and its booking arrangements, are also determinative factors.
7. The Council have referred to an appeal where it was held that the units in question were in fact C3 dwelling houses (not a C1 aparthotel) because they were entirely self-contained with no other communal facilities provided within the building and contained all the characteristics of dwellings and none of the characteristics of hotels apart from being let on a nightly basis and providing daily cleaning. I have not been provided with a copy of the appeal decision or full details of the case. I cannot be certain that it was considered under the same procedure as this appeal. I therefore can only give it limited weight. In any event, I have determined the appeal on the basis of the evidence before me and its individual planning merits.
8. The Council have provided details of the previous application and subsequent planning appeal¹ at the site in relation to a proposed C3 use. Whilst I have had regard to the decision, it is fundamentally for a different use than that which is before me. I therefore can only give it limited weight. In any event, I have determined the appeal on the basis of the evidence before me and its individual planning merits.
9. I have therefore considered the appeal on the basis of the development proposed, namely as an aparthotel. A planning condition can be imposed to refer to the use class under which the development may operate. Should the unit be found to operate under use class C3, or indeed any use other than C1, this would be a breach of any permission granted and liable to planning enforcement.

¹ APP/M3455/W/19/3239560

10. On this basis, the Council have incorrectly applied amenity and floorspace standards that are not relevant for a development of this nature. The development would therefore not be contrary to Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (2006-2026), the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) and guidance within the National Planning Policy Framework and National Design Guide, which collectively seek to ensure good standards of living conditions in residential development.

Living conditions of occupants of the adjacent flats

11. Although the Council have outlined that they consider the use would not constitute a use within use class C1, and would in fact be use class C3, they have refused planning permission due to the impact the use of the premises as an aparthotel (use class C1) on the living conditions of adjacent flats.
12. The appeal site is located in a town centre location where there are a wide range of commercial, leisure and residential uses within close proximity. Although there will be a certain level of comings and goings at various times, I find that taking into account the context of the appeal site and the relatively small-scale size of the proposed use to provide overnight accommodation, that there will not be an unreasonable level of noise and disturbance created.
13. I do not find the fact that residents of the other flats occupying the first floor of the building having to share the same main access point and communal lobby and stairwell would cause an unacceptable impact on living conditions.
14. Also, there is no substantive evidence that the fact that anyone could book the accommodation, for any length of stay, and with no onsite management, would cause detrimental levels of noise, nuisance, disturbance and safety concerns for existing residents.
15. I note the concerns expressed by the Police about the potential for the proposed use being used for various illegal activities such as prostitution, drug taking and trafficking. There is no substantive evidence that these activities would ensue at the premises and I do not consider that the appeal should be dismissed on this basis. Were any such activities to be undertaken, as with at any premises, these would be subject to action by the relevant authorities.
16. I therefore conclude that the proposed development would not have an unacceptable impact on the living conditions of occupants of the adjacent flats with regard to noise, disturbance and security concerns. It would therefore comply with Policy CSP1 of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (2006-2026), the Newcastle-under-Lyme and Stoke-on-Trent Urban Design Guidance SPD (2010) and guidance within the National Planning Policy Framework. Collectively, these policies require that development maintains a good standard of living conditions for all occupiers.

Conditions

17. In addition to the standard time limit condition, I have imposed a condition requiring that the development is carried out in accordance with the approved plans, this is in the interest of certainty.
18. I have also imposed a condition requiring that the room shall not be occupied other than as an aparthotel (Class C1), shall not be used as the sole or main

residence of any of the occupiers, and no person shall occupy the aparthotel for a continuous period of more than 3 months. This is necessary to ensure the use of the premises is as an aparthotel and not a residential unit.

19. The Council have requested a condition requiring a register shall be established and maintained at all times when the aparthotel is occupied and shall contain information regarding the names of occupiers of the units within the aparthotel and the duration of their stay, to be made available to the Council in response to all reasonable requests for information about occupancy of the aparthotel. I find that such a condition is not necessary to make the development acceptable in planning terms.

Conclusion

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

A M Nilsson

INSPECTOR