The Planning Inspectorate

Appeal Decision

Site visit made on 3 February 2021

by William Walton BA MSc Dip Env Law LLM CPE BVC MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th February 2021

Appeal Ref: APP/E2734/W/20/3261634
21 Market Place, Knaresborough, North Yorkshire HG5 8AL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant full planning permission.
- The appeal is made by Mrs Elizabeth Collins against the decision of Harrogate Borough Council.
- The application Ref 20/00125/COU, dated 10 February 2020, was refused by notice dated 21 April 2020.
- The development proposed is described as the change of use of the existing ground floor shop to residential space / occupancy.

Decision

1. The appeal is dismissed.

Procedural Matter

2. The ground floor shop is referred to in the Council's Decision Notice as Use Class A1. Following amendments to the Use Class Order in September 2020 a shop is now categorised as being in Use Class E(a).[1]

3. The description of the proposed development used in the banner heading above is that which was given in the application form. The Appellant later considered that a more accurate description would be 'Change of use of ground floor retail shop (Use Class A1) to create private access to upstairs flat (Use Class C3)'. However, whilst the Appellant's concern about the purpose of the development proposal is noted the initial description is used in this Decision Letter.

4. The property is Grade II listed and falls within the Knaresborough Conservation Area. Under s.66(1) and s.72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 respectively there is a special duty to ensure that listed buildings and conservation areas are protected.

5. The development proposal would not necessitate any internal alterations and would not result in any visual changes to the property. It would therefore neither affect the listed building's structural integrity nor harm its setting, nor would it harm the setting of the Conservation Area.

[1] See Statutory Instrument 2020 No. 757 – The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020.

Main Issues

6. The main issues are:

- Whether the change of use from Use Class E(a) (shop) to Use Class C3 (dwelling) would harm the vitality and viability of Knaresborough town centre; and
- The effect of the development proposal upon the living conditions of future occupants of the property.

Reasons

Vitality and Viability

7. The appeal property is a narrow, 3-storey Grade II listed building constructed of red brick with timber bays located about halfway along one side of Market Place in the centre of Knaresborough. The ground floor has a black framed bay window with the entrance door on the left. There is a single bay window on the first floor and 2 windows on the second floor. It is a very attractive building.

8. At the time of the site visit, the ground floor was vacant. The Appellant had run the unit as a shop from 1989 to 2018. The two upper floors are in residential use and occupied by the Appellant.

9. The property sits next to Blind Jack's public house on one side and the Friendship and Leisure Centre (a community centre) on the other side. Elsewhere around Market Place are a variety of shops and other commercial uses including a hair salon, a florist, a baker, a jeweller and an optician. Within Market Place none of the ground floors appeared to be in residential C3 use.

10. The proposed development comprises the change of use of the ground floor of the property from retail Use Class E(a) to residential Use Class C3. The entrance to the shop serves as the only means of access to the upstairs flat. Such an access arrangement is understood to be highly unusual within the centre of Knaresborough and possibly unique.

11. The change of use would allow the Appellant to secure an entrance lobby to her living accommodation rather than walk through a vacant retail unit to the stairs. It would also allow her to foreclose any possibility, in the event of regulatory changes, of having to pay business rates for a vacant ground floor retail property in addition to council tax for the upstairs residential flat. Finally, she would be able to use the area as additional living space.

12. The Council's policy seeks to restrict the change of use from retail to other uses, including residential, in town centre locations. Those seeking a change of use are required to demonstrate that the proposal would not harm the vitality and the viability of the town centre.

13. The town's vitality and viability does not rely solely upon Use Class E retail uses. Public houses, a library and a community centre can all contribute to the town centre's vitality and viability by attracting people to the area. The market held each Wednesday and the monthly farmers' market also help contribute to the vitality and viability of Market Place and the wider town centre. However, ground floor residential uses do not make a significant contribution to the town centre's vitality and viability.

14. There are several ground floor residential properties within Knaresborough town centre. These include properties at 26 and 28 Castlegate / Cheapside where permissions were granted in 2018 and 2020 respectively for change of use from a photographic shop to a dwelling. Furthermore, there have also been changes of use from an antique shop and a sweet shop to residences at 4 Cheapside and 6 Castlegate respectively. In addition, there are ground floor residential properties at 1, 2 and 30 Castlegate and 3 Dragon Yard.

15. It is understood that most or all these properties are within the town centre. However, no details of the planning decisions have been provided and therefore the circumstances of each case, including the policy context prevailing at the time, are not known. In any event, since each case is determined on its own merits, previous decisions do not form a precedent binding on this appeal. Consequently, little weight is attached to these cases and decisions.

16. Therefore, in the absence of any convincing evidence to the contrary, the change of use of a ground floor retail property to a residential property in such a prominent location would harm the town centre's vitality and viability. Consequently, the development proposal would fail to accord with Policy EC5 of the Harrogate District Local Plan 2014-2035 2020 (LP) which seeks to encourage the retention of retail uses in Knaresborough town centre to maintain its vitality and the viability.

Living Conditions

17. The proposed development would allow the current and future occupants of the existing flat to use the ground floor for living space. The occupants would be close to people walking past the property and to the hustle and bustle associated with the weekly and the monthly market stalls. In addition, one of the neighbouring buildings is a public house.

18. These activities would generate some noise and disturbance, and possibly at unsocial hours. However, this would not be significantly more intrusive than that which affects the occupants on the first floor of the appeal property. If there were any disturbance it would not be of an unacceptable level.

19. Consequently, the development proposal would not harm the living conditions of future occupants on the ground floor. It would therefore accord with Policy HP4 of the LP which seeks to ensure that new development would not expose future occupants to unacceptable levels of noise or disturbance.

20. In addition, the proposal would accord with Paragraph 127f) of the National Planning Policy Framework which seeks to ensure that new development provides occupants with a high quality of living conditions.

Other Matters

21. The development proposal would allow the occupant of the flat to have exclusive control of the ground floor. Reference has been made to another council's planning guidance covering proposals for changes of use to flatted accommodation and fire safety. Whilst the approach of a different council is not particularly relevant to the determination of this appeal, matters concerning fire safety are of an understandable concern.

22. However, even if the shop were to become tenanted, no convincing reason or explanation has been provided as to why this would constitute an additional

and unacceptable fire hazard for the occupants of the upstairs flat. Consequently, little weight is attached to this matter.

Planning Balance and Conclusion

23. The development proposal would provide for the satisfactory living conditions of future occupants. This is a consideration of neutral significance. However, by removing a shop unit from such a prominent location in Market Place it would harm the vitality and the viability of Knaresborough town centre. This is a harm which fundamentally conflicts with the Development Plan.

24. For this reason, the appeal should be dismissed.

William Walton

INSPECTOR