



Appeal Decision

Site Visit made on 23 February 2021

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/D1780/W/20/3260057

Sanjha Restaurant & Takeaway Ltd, 296-298 Shirley Road, SOUTHAMPTON SO15 3HL

- 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 Amaro Trandhawa of Sanjha against the decision of Southampton City Council.
 - The application Ref 20/00123/FUL, dated 27 January 2020, was refused by notice dated 27 March 2020.
 - The development proposed is the Change of use of ground floor flat to provide additional space for existing restaurant/takeaway (Class A3/A5).
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Decision

1. The appeal is allowed and planning permission is granted for the Change of use of ground floor flat to provide additional space for existing restaurant/takeaway (Class A3/A5) at Sanjha Restaurant & Takeaway Ltd, 296-298 Shirley Road, SOUTHAMPTON, SO15 3HL in accordance with the terms of the application, Ref 20/00123/FUL, dated 27 January 2020, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.

Main Issue

2. The main issue is the effect of the development on the supply of housing.

Reasons

3. The accommodation is a one bedroomed flat with combined living/kitchen area contained mainly in a single storey addition to the adjoining property which is, at ground floor, in use as kitchens/restaurant/takeaway. The flat has no external amenity space.
4. No external changes are proposed and internal changes include the formation of a food preparation room and cold room to enlarge the service facility to the existing restaurant/takeaway.
5. The Council object in principle to the loss of the residential accommodation. Policy H6 of the City of Southampton Local Plan Review (2015) states that planning permission which would result in the loss of dwellings will not be granted other than in accordance with specific criteria. Amongst the exceptions include where surrounding uses make the retention for residential use unacceptable and secondly where the residential unit forms a subsidiary part of a non-residential property and a separate access cannot continue to be practically provided.

6. The frontage to Shirley Road is part of a wider commercial area which forms part of a local shopping and service district. The flat fronts to the side of the property on Harold Road which, apart from the units either side of the entrance to the road, is a short no through road of predominantly semidetached residential properties.
7. There is some conflict between the refuse storage arrangements from the restaurant and the access into the flat. The appellants state that it has been difficult to let the flat owing to the poor external environment and the general noise and disturbance experienced from vehicles and general activity close to habitable rooms. I saw on my visit that the area immediately outside the access to the flat was utilised for commercial bin storage and I agree with the appellant that the living conditions of any occupants of the flat in the light of these conflicts would be less than ideal.
8. The appellants emphasise that the Council have failed to consider the positive benefits associated with the proposal in supporting an existing business to expand. They also point out that the Councils' objection is one of principle and no harm has been identified which would result through the loss of this unit.
9. I have no evidence from the Council that the provision of one bedroom flats is a particular deficiency in the area though it is clear that the loss of even a single unit of accommodation would conflict with the principle of Policy H6 and also the ambition of the National Planning Policy Framework (the Framework) to significantly boost the supply of housing. I am also mindful of the Framework provisions which support business growth and allow businesses to invest and expand.
10. The lack of any objection to the proposals on environmental health grounds is also a material factor.
11. For the above reasons the particular circumstances of this case including: the subsidiary nature of the accommodation to a non-residential use, the fact that the flat is physically attached and partially integrated within the existing commercial premises and the juxtaposition of the flat access to refuse storage areas, lead me to conclude that the partial conflict with Policy H6 would be significantly outweighed by the benefits which would be afforded to the existing business enterprise.

Other Matters

12. I note that the planning history of the site sets out that the single storey extension to the rear, of which the appeal accommodation forms part, was permitted in 1991 as a rear extension to form a garage. Other planning applications have been considered since that time but none appear to relate to the formation of the flat. The Council do not take issue with the current use of the building and this matter does not influence the outcome of the appeal.

Conditions

13. The Council have not recommended any conditions. The proposal does not involve any physical works to the exterior of the building and no conditions other than the standard time limit are therefore considered necessary.

Conclusion

14. For the above reasons, and having had regard to all other matters raised, the appeal is allowed.

Janet Wilson

INSPECTOR