
Appeal Decision

Site visit made on 24 February 2021

by L Page BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15th March 2021

Appeal Ref: APP/Q3305/W/20/3263893

2A Market Place, Frome BA11 1AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Charles Teff against the decision of Mendip District Council.
 - The application Ref 2020/1672/PAO, dated 3 August 2020, was refused by notice dated 19 October 2020.
 - The development proposed is change of use of a building from office use (Class B1(a)) to dwellinghouses (Class C3).
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Decision

1. The appeal is allowed, and prior approval is granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and relevant conditions therein, including additional conditions attached to the decision set out below, for the change of use of a building from office use (Class B1(a)) to dwellinghouses (Class C3) at 2A Market Place, Frome BA11 1AG in accordance with the application Ref 2020/1672/PAO, dated 3 August 2020, and the details submitted with it.
 - 1) Prior to the occupation of the development hereby approved, a scheme for protecting the intended occupants of the development from noise from the commercial premises directly beneath the site shall have been submitted to and approved in writing by the local planning authority. All works which form part of the scheme shall be completed before the development is occupied and be retained thereafter.

Procedural Matter

2. The description of development has been taken from the appeal forms and decision notice as these more accurately describe the proposal compared to the application forms. However, considering there are multiple units of residential development proposed, dwellinghouse has been used in its plural form. The appeal has been dealt with accordingly.

Main Issues

3. The main issues are:
 - (a) the effect of the proposal on highway safety; and
 - (b) living conditions of intended occupiers in relation to noise.

Reasons

Highway Safety

4. The site is located at 2A Market Place in Frome, which comprises an office use and is located above an existing commercial premises in the form of a café. It is within the primary shopping area of the town and there are public transport links, including bus stops and a railway station, in walking distance of the site and therefore opportunities exist for people to move in a sustainable manner despite potentially limited private vehicular parking in the immediate vicinity.
5. The proposal would change the use of the building from office use (Class B1(a)) to dwellinghouses (Class C3) comprising three units of accommodation. Intended occupiers would be able to utilise the town centre shops and services for day to day needs, without relying on a private vehicle. For needs further afield, public transport links would provide options for sustainable travel.
6. There is no suggestion that the office use has been detrimental to highway safety or that office workers have not been able to access the site in a sustainable manner in the context of local public transport provision and lack of private vehicular parking nearby. Consequently, it is highly unlikely that a small scale change of use to dwellinghouses would generate the level of additional movements or parking demand that could materially affect the existing network or harm highway safety.
7. Although referenced in evidence, the parking standards appendix is not submitted under the appeal and therefore I have no basis to conclude that the proposal is deficient in this regard. Notwithstanding, and altogether, I am satisfied that the central location of the site, proximity to local shops and services, including public transport links, in conjunction with the relatively limited quantum of development, would offset any concerns about parking demand and highway safety.

Living Conditions

8. The wording of the general permitted development order is clear that noise impacts should be assessed from commercial premises on the intended occupiers of the development. There is no evidence of a provision to conduct this in the reverse and assess the impacts of noise from the development on the commercial premises.
9. In this context, there is also no evidence in front of me to demonstrate that the café would be out of the ordinary in terms of the general day to day commercial activities that might be expected of such a use in a town centre location. For example, there is no evidence that there are music events or other such activities that may generate noise above and beyond what might reasonably be expected from a café and activity generated by the comings and goings of people.
10. There is no evidence that the commercial premises enjoys an extended period of opening where there is added potential for normal daytime activities to disturb the intended occupiers during night time and hours of sleep. Similarly, there is no evidence that the peak of activity is not during the day, wherein it is also likely that the intended occupiers would be out at work and therefore unlikely to suffer disturbance from noise.

11. Consequently, the pattern and intensity of the commercial premises' use is unlikely to cause disruptive levels of noise in and of itself. Paragraph W.(13) of the general permitted development order is clear that the relevant authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval.
12. On this basis, some noise associated with the commercial premises cannot be ruled out. However, there is no evidence in front of me that it would be excessive or disruptive to living conditions. Therefore, I see no reason why a condition could not secure mitigation that addresses the limited potential for noise. It is important to note that this would not require the commercial premises to take any remedial action, and actions would rest with whoever implements the permission and would relate only to the site under this appeal.
13. Overall, the pattern and intensity of activity alongside the potential for mitigation leads me to conclude that the proposal would not have a harmful effect on the living conditions of intended occupiers in relation to noise.

Other Matters

14. There is no objective evidence in front of me demonstrating that drainage matters are directly linked with the prior approval matters relating to flood risk or that the appeal should be dismissed on this basis.

Conclusion

15. For the reasons given, the appeal is allowed, and prior approval is granted subject to conditions.

Liam Page

INSPECTOR