



Appeal Decision

Site visit made on 6 April 2021

by Mr Kim Bennett BSc DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 April 2021

Appeal Ref: APP/D3830/W/20/3260449

1-11 Junction Road, Burgess Hill RH15 0HP

- 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 Mr R Parkinson (Quinata UK Ltd) against Mid Sussex District Council.
 - The application Ref DM/20/2157, is dated 17 June 2020.
 - The development proposed is change of use from retail to 3 x 1bed apartments.
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Decision

1. The appeal is allowed and planning permission is granted for change of use from retail to 3 x 1 bed apartments at 1-11 Junction Road , Burgess Hill RH15 0HP in accordance with the terms of the application, Ref DM/20/2157, dated 17 June 2020, subject to the conditions set out in the schedule at the end of this decision.

Application for costs

2. An application for costs was made by Mid Sussex District Council against Mr R Parkinson (Quinata UK Ltd.). That application is the subject of a separate decision.

Main Issues

3. The main issues are: whether sufficient information was initially submitted to make the application valid; and with regard to planning merits, whether the proposal would provide an acceptable land use and satisfactory living conditions for future occupants.

Reasons

Validation dispute

4. The appeal site comprises a large three storey building which extends around the corner of Junction Road at the roundabout with Station Road/ Silverdale Road and Keymer Road. At ground floor on the frontage facing the roundabout, there is an extensive ground floor projection which accommodates a retail shop selling beds. Elsewhere on the ground floor and on the upper two floors, the property has been converted to residential accommodation. The immediate area is of mixed character with commercial and residential uses.

5. The building has been the subject of several proposals in recent years to convert upper floors and part of the ground floor to residential use. Most recently, it has been the subject of two Prior Approvals, both of which were approved by the Council. The first, under reference No DM/19/4670 (the 2019 application), involved the creation of 5 flats on the ground floor frontage, with the retention of some retail space to the rear. The second, under reference No DM/20/3827 (the 2020 application), involved a change to the internal configuration of flat 1. The current proposal involves a further variation to the above, with no changes to flat 4 and 5, but improved accommodation to flats 1-3 together with the provision of areas for cycle and bin storage. No retail floorspace would remain and there would only be minor additional external alterations.
6. The application was submitted in June 2020 and the Council advised in a letter dated 23 June 2020 that the application was invalid because a block plan and planning statement had not been submitted. There followed protracted exchanges between the Council and the appellant with the latter advising that a block plan was not part of the National Requirements and that the Council was relying on guidance which had been cancelled. Something of an impasse appears to have developed between the parties, with the Council eventually notifying the appellant in a letter dated 10 September 2020 that the application would be treated as withdrawn. The appellant responded on the same date advising the Council that it had no power to do this. Following further exchanges, the appellant then followed this up in an email dated 23 June 2020, advising that it should be treated as a formal notice pursuant to Article 12 of the Town and Country Planning (General Management Procedure) (England) Order 2015 (GMPO). The email reiterated that a block plan was considered unnecessary and that a covering letter dealt with the merits of the application.
7. The Council does not appear to have formally responded to the above, either in the form of a Validation Notice or a Non Validation Notice as it is required to do so by Article 12 of the above Order. Clarification on this matter has been sought with the Council but it has simply referred back to the letters of 23 June and 10 September as set out above. However, leaving aside whatever procedural irregularities may or may not have occurred, I find on the validation issue as follows:
8. The requirement for plans and drawings to be submitted with an application are explained in the Practice Planning Guidance (PPG) and as the appellant referred to in exchanges with the Council, the *only* (my emphasis) national requirement for plans and drawings is a location plan. This is quite clearly set out in Article 7 of the GMPO. The PPG guidance goes on to explain that additional plans will in most cases be necessary to describe the proposed development and may be requested through a Council's local list of information requirements, provided it has been reviewed two years before the submission of the application.
9. However, even when included on a local list, and my understanding that at the time of the application submission a block plan was not formally required, the guidance in the PPG goes on to advise that additional information must be reasonable having regard, in particular, to the nature and scale of the proposed development; and about a matter which it is reasonable to think will be a material consideration in the determination of the application. This is a reflection of the statutory requirements set out in Section 62 (4A) of the Town and Country Planning Act 1990 (inserted by the Growth and Infrastructure Act).

As such it requires some judgement to be made as to whether the additional information being sought is proportional to the proposal being submitted.

10. Having regard to the above, the location plan submitted with the application clearly identified the extent and location of the site. This was supplemented by detailed floorplans of existing and proposed internal arrangements of floorspace. The Council had already given Prior Approval in the 2019 and 2020 applications for the same number of flats proposed and would therefore be well aware of the issues relating to the site and from previous information submitted. Essentially the changes only amounted to improvements to living accommodation which the Council had already approved, and raised no significant planning issues beyond which had already been considered.
11. In the light of the above, I agree with the appellant that the submission of a block plan would not have added in any meaningful way to information the Council would have needed in order to assess the proposed changes, compared to what it had previously approved. It amounted to a disproportionate request for additional information which the guidance in the PPG and the statutory requirements are clearly seeking to avoid.
12. Accordingly, I find that a block plan was not necessary in this particular instance and therefore the application was valid as far as the initial submission of plans and drawings was concerned. I also agree that the covering letter submitted with the application papers adequately described the scope and extent of the application. I have seen no other reference by either party to suggest that the application was deficient in any other respects. The appeal therefore relates to a failure of the Council to determine the application within the prescribed period.

Planning merits

13. In its appeal statement the Council has considered the planning merits of the case and finds no objections in principle, particularly having regard to the fact that the site already has permission for 5 residential units. The Council goes on to consider the proposal in respect of various issues relating to impact upon the surrounding area, access and parking, sustainability, dwelling space standards and potential impact upon the Ashdown Forest Special Protection Area (SPA) and Special Area of Conservation (SAC). Apart from a minor infringement of space standards for flat 2, the Council considers there are no planning objections in respect of these issues and that the screening assessment under the Habitat Regulations concludes there would be no likely significant effects on the SPA or SAC. The Council therefore considers that the proposal is compliant with Policies DP4, DP6, DP17, DP21, DP26, DP27, DP39 and DP41 of the Mid Sussex District Plan 2014-2031.
14. I have carefully considered the Council's statement and had regard to the various issues when I visited the site. I see no reason to differ from the Council's assessment and agree that there are no land use planning objections to the proposal. I agree therefore, that the proposal is in accordance with the Council's adopted policies as set out above.
15. Conditions requiring the development to be carried out in accordance with the approved plans, details of materials, noise insulation and the provision of cycle parking and refuse storage, are necessary in the interests of certainty, visual amenity, living conditions of future occupants and to ensure adequate cycle

and refuse storage facilities are provided. Conditions setting out working hours, a report on potential asbestos and sustainability measures, are all necessary in the interests of the amenities of existing surrounding residents and future residents of the flats. Although the Council requested a condition relating to disposal of foul and surface water, I note in the application form that connections are proposed to existing main sewers and there is no information before me to suggest that would be inadequate in any way.

16. Accordingly, the appeal is allowed and planning permission is granted subject to the conditions set out below.

Kim Bennett

INSPECTOR

Schedule of 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: site location plan from Buy A Plan; 4D01; 4D01E; 4D03; 4D02; 4D04 4D02E
- 3) No development above ground floor slab level shall be carried out until a schedule and/or samples of materials and finishes to be used for the external walls, windows and doors of the proposed dwellings have been submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 4) No work for the implementation of the development hereby permitted shall be undertaken on the site on Sundays or Bank/Public Holidays or at any time other than between the hours 8am and 6pm on Mondays to Fridays and between 9am and 1pm Saturdays.
- 5) No part of the development shall be first occupied until the secure cycle parking spaces and refuse storage areas have been provided in accordance with the approved plans.
- 6) The development shall be carried out in accordance with the Sustainability Statement submitted with the appeal, with a closing report to be submitted to the local planning authority upon completion of the development showing how the aims of this Statement have been met.
- 7) The development hereby permitted shall not be occupied until a verification report, prepared by a competent person, has been submitted to and approved in writing by the local planning authority detailing the presence and location of all asbestos containing materials (ACMs), the measures taken to remove all ACMs and including any consignment notes of ACM waste removed from the site.
- 8) No development shall take place until a scheme for protecting the residential units from noise generated by road traffic or other external

sources, has been submitted to, and approved in writing by, the local planning authority. The scheme shall include an Acoustic Design Statement in line with the recommendations of ProPG: Planning & Noise Professional Practice Guidance on Planning & Noise 2017 and shall ensure that internal and external noise levels are in accordance with BS 8233 2014: Guidance on Sound Insulation and Noise Reduction for Buildings. Noise from individual external events typical to the area shall not exceed 45dB L_{Amax} when measured in bedrooms internally between 23:00 and 07:00 hours post construction, unless otherwise agreed in writing with the local planning authority. Where the internal noise levels will be exceeded by more than 5dB with windows open, then the applicant shall submit details of an alternative means of ventilation with sufficient capacity to ensure the thermal comfort of the occupants with windows closed. All works that form part of the scheme shall be completed before the flats are first occupied.