



Appeal Decision

Site Visit made on 20 July 2021

by R E Jones BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 August 2021

Appeal Ref: APP/F0114/W/21/3273072

Unit 9, Riverside Court, Westmoreland, Bath BA2 3DZ

- 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 Netcraft against the decision of Bath and North East Somerset Council.
 - The application Ref 20/03608/FUL, dated 1 October 2020, was refused by notice dated 15 January 2021.
 - The development proposed is change of use of vacant office floorspace to create three self-contained flats on the first and second floors, with communal office floorspace on the ground floor.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposal would result in an unacceptable loss of employment space in the city.

Reasons

3. The appeal site comprises a vacant three-storey unit within an office complex building. It is proposed to convert the upper two floors of the unit to three residential flats, while the ground floor would be reserved as office space for future occupiers.
4. Policy ED1B of the Placemaking Plan¹ states that the principle of conversion of office to residential is acceptable. However, there are a number of exceptions to this, which include instances where permitted development rights have been removed through an Article 4 Direction. At those locations strong economic reasons must exist to convert office uses to residential. The site lies within one of Bath's Enterprise Zones. For schemes in this part of the city, strong economic reasons for allowing schemes, will include the need to retain the space in the context of the achievement of strategic Core Strategy targets set out in Policies B1, KE1 and SV1; quality of office space, market signals and forecasts.
5. Bath has experienced a decline in the availability of office floorspace in recent years and a report prepared by the Council notes that between 2011/12 - 2015/16 there has been a net loss of 6,000m² of floorspace. The report notes that the rate of losses is far exceeding policy provision, and the delivery of new

¹ Bath and North East Somerset Local Plan 2011-2019, Core Strategy and Placemaking Plan (Placemaking Plan), adopted July 2017

- replacement floor space is not taking place at the required rate. This, according to the Council, poses significant economic development risks. Consequently, in 2019, the Council introduced an Article 4 direction, in this part of Bath, that prevents existing offices being converted to residential uses through the prior approval process.
6. Following the introduction of the Article 4 direction, an updated annual monitoring report, prepared by the Council, indicated that between 2011-2019 the net loss in office floorspace increased to 14,753m². There is understandably concern from the Council that its strategic target for net employment floorspace of 40,000m² as outlined in Policy B1 of the Core Strategy² would be undermined by further losses in employment floorspace. A reduction in space could also harm the ability to attract new employment to meet the Council's net target for the city during the development plan period.
 7. The Carter Jonas report (CJR) that accompanies the appeal provides information on commercial floorspace in the city and includes recent trends and changes in that market. The report states that there is currently an over-supply of available office space in the city to enable the proposed change to residential flats to proceed. However, it is not clear in numerical terms what that current level of supply equates to in floorspace, and whether the existing office stock, meets the Council's employment floorspace target set out in Policy B1.
 8. The CJR refers to a number of large office developments that have been consented. However, I am uncertain whether those schemes referred to (e.g. North Quays, Roseberry Place and Bath Press) have been built, and if so whether or not they are contributing to the overall availability of employment floorspace in the city.
 9. Since the appeal building has been vacant there has been no evidence of any active marketing of the office space. Such an exercise would have advertised the unit's availability to prospective businesses for employment purposes. The appeal documents refer to a neighbouring unit in the office complex (Unit 7) being marketed since December 2018 without success. However, that unit is a separate part of the complex and I have no specific information on its specification.
 10. Also, I have no evidence to indicate that the location and physical condition of the offices renders it unsuitable for employment purposes. From my site inspection I noted that the appeal site's location close to the city centre and public transport connections would provide a convenient location for future occupiers to access nearby services, such that it would represent a desirable location for some prospective occupiers.
 11. The proposal would retain some office space at the ground floor that would be reserved for future occupiers of the flats. I acknowledge that this would provide some flexibility for future occupiers that require a work space, yet there would be no guarantee that those occupiers would utilise the ground floor as a communal office space. In addition, I have no mechanism before me that would ensure that the space is occupied and retained for employment purposes for future residents. Accordingly, this aspect of the scheme attracts limited weight in favour of the proposal.

² Bath and North East Somerset Core Strategy, adopted July 2014

12. Policy SB5 of the Core Strategy covers development proposals at Riverside Court, which the appeal site forms part. The policy's vision for this site is of mixed-uses embodying both employment floorspace and residential units. Whilst the proposal would include a mix of those uses it would also result in the loss of office floorspace, the overall extent of which the policy seeks to retain. Therefore, I do not consider that the proposal aligns fully with this policy's intentions.
13. Taking into account the above, I have not been presented with any robust or compelling reasons to justify the change of use of these offices to residential flats/communal office space. Although the amount of office space that would be lost would be modest, it would nevertheless erode further the overall supply of employment space in Bath, which in turn would have harmful consequential effects on the Council's ability to meet its economic growth targets.
14. Therefore, the proposal would result in an unacceptable loss of employment space in the city and would fail to accord with Policy ED1B and SB5 of the Placemaking Plan and Policy B1 of the Core Strategy, the provisions of which have been referred to above.

Other Matters

15. The CJR report refers to there being a general shortage in housing availability, and the appeal proposal would therefore make a positive contribution to the local housing stock. It is recognised that there may be a lack of housing provision in many parts of the country, yet the Council has indicated that it has a 5-year supply of deliverable housing sites, and as such there is no recognised shortage in the locality. I have therefore given limited weight to this matter.
16. The appellant has also indicated that the proposal could be implemented under permitted development (PD). At the time of writing this decision the current PD rights³ relating to the conversion of offices (Class E) to residential uses (Class C3) do not allow for those conversions where an Article 4(1) direction is in place. Therefore, given that this direction relates to the appeal site, the proposal does not benefit from the permitted changes outlined in Class MA.
17. In support of the proposal the appellant has referred to a potential fallback position where the appeal site could be developed into residential flats as part of an earlier prior approval scheme for 27 units⁴. However, for this possibility to be given any real weight there must be a realistic prospect of that development taking place and given that this earlier consent has now lapsed, this limits the weight that I can attach to it as a fallback position.
18. The appellant has put forward the argument that the COVID 19 Pandemic has altered the market for office space and resulted in a larger number of unoccupied offices, with organisations and individuals moving to working from home or more flexibly in terms of their need to work statically in a single office location. Yet, the situation currently, as the country emerges from the most recent lockdown restrictions, is fluid and the long-term implications in this regard are far from clear, including the need to retain existing office space locations. I have, therefore, afforded this little weight in my considerations.

³ Class MA of the Town and Country (General Permitted Development etc) (England) (Amendment) Order 2021

⁴ Local Planning Authority Approval Ref – 17/06227/ODCOU

19. I note the comments from nearby commercial occupiers, indicating their support for a development that allows office and residential uses to be closely aligned. Whilst I acknowledge that there would be some flexibility in this regard, those benefits would not outweigh the loss of the offices and the consequential decline in employment space.

Conclusion

20. For the reasons given above I conclude that the appeal should be dismissed.

RE Jones

INSPECTOR