



Appeal Decision

Site visit made on 23 November 2021

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 May 2022

Appeal Ref: APP/W1850/W/21/3269186

Methodist Church 145 The Homend, Ledbury, Herefordshire HR8 1BS

- 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 M Etheridge against the decision of Herefordshire Council.
 - The application Ref 200662, dated 24 February 2020, was refused by notice dated 20 January 2021.
 - The development proposed is the change of use of former Methodist chapel to A4 wine bar with food facility, also managers flat.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the address contained within the Council's decision notice and within the appellant's appeal form, rather than the application form, as this is correct.

Main Issue

3. The main issue is the effect of the proposal on the living conditions of neighbouring occupiers, in particular No 143 The Homend, with regard to noise, odour and overlooking.

Reasons

4. The appeal site comprises a three-storey detached building forming part of a built up frontage that runs through the centre of Ledbury. The site is located within the Ledbury Conservation Area and there are a number of listed buildings nearby.
5. The proposal incorporates the conversion of the building into an A4 wine bar at first and second floor, with managers accommodation on the ground floor. The wider area is characterised by a mix of commercial and residential uses, typically with commercial uses at ground floor and residential accommodation above.
6. Whilst there are commercial uses nearby and the site is located at the end of the Secondary Retail frontage, as defined by the Ledbury Neighbourhood Development Plan (2018) (NDP), I saw how these uses peter out here, with the surrounding area becoming more residential. The appeal site, for example, is bound by a residential property to the north and a salon with residential accommodation on the first and second floor.

7. Thus, there is a potentially sensitive relationship between the scheme before me and surrounding residential uses. Whilst I accept that some noise and disturbance is the inevitable corollary of living in a central location, I have nevertheless reasoned above that non-residential uses nearby are relatively few and far between. There is no robust evidence before me that existing non residential uses operate for similar times of day, or with similar implications in terms of noise, disturbance and odour as the scheme before me. I note that the proposed use, associated comings and goings, and ventilation would intrinsically operate late in the day, where nearby residents would in my view have a legitimate expectation of a reasonable degree of tranquillity.
8. I accept that some details of the ventilation system have been provided, and there is nothing to indicate that achieving industry standards could not be achieved in that regard. I also note that there is no objection from the Council's Environmental Health department, albeit the threshold for statutory nuisance differs from the consideration of whether closely located uses would be acceptable and compatible. Nonetheless there is no specific evidence before me as to the implications of the scheme for noise levels experienced by those nearby compared to current circumstances, including in respect of the prevailing baseline, at different times of day, and in relation to the ventilation system proposed. .
9. Moreover, relative to the prevailing nature of the area described above, noise and general disturbance generated by customers and comings and goings into the night would also create some level of noise and hubbub which does not presently occur (and, in all likelihood, would not be associated with some form of community use). Notwithstanding the take away in close proximity to the site, nearby commercial uses appear to predominantly operate in the day rather than late into the night. Whilst I accept that any more intensive use of the property would result in some potential for noise and disturbance, relative to the prevailing nature of the area, given the lack of specific evidence in terms of noise, and given the nature of the use and likely profile of noise that would arise, in my view it has not been demonstrated that the scheme would integrate appropriately with its surroundings with regard to prevailing living conditions.
10. The appellant points to a fallback position that the site could be utilised for a number of functions such as creches and evening classes without requiring planning permission. However, there is no evidence before me that would suggest that this is a likely alternative, as the site has been empty since 2019 and was marketed for some 18 months as its current use. Such uses are also likely to give rise to different patterns of noise, and are more likely to be more constrained to daylight hours. I can only give such a fallback limited weight and it does not persuade me that the development would be acceptable in respect of its effect on the living conditions of nearby occupiers.
11. A suitable condition could ensure that the extraction equipment be installed to an appropriate specification that would minimise disturbance from noise and odours. However, this would not eliminate all potential implications, as reasoned above, given the location of the proposed extraction equipment and the proximity of nearby residential uses. Limiting the opening hours, even closing at 2300 (or 2200 on Sundays and Bank Holidays), would enable the use to continue well past a time when residents could reasonably expect tranquility in line with the prevailing nature of the area. I do not, therefore, consider that

conditions could adequately mitigate the harm and make the proposal otherwise acceptable.

12. Consequently, the proposal would give rise to an unacceptable level of harm to the living conditions of occupiers of adjacent and nearby residential properties. This would be contrary to the Herefordshire Local Plan Core Strategy (2015) Policy SD1 which seeks to ensure that development safeguards the amenity for existing residents and does not contribute to adverse impacts arising from noise. The development would also be contrary to paragraphs 130 of the National Planning Policy Framework (the Framework) which seek to ensure that development provides a high standard of amenity for existing and future users.

Other Matters

13. As the proposal lies within the Ledbury Conservation Area and is in close proximity to a number of listed buildings, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). In determining the application, the Council's Building Conservation Officer raised no concerns regarding the proposed development. Neither party have raised this as a concern during the appeal. Based on the evidence before me, I am satisfied that the proposal, due to the limited alterations to its external appearance and ensuring its continued use, would have a neutral effect on, and therefore preserve, the setting of the Conservation Area and listed buildings.
14. Whilst the proposal would bring socio-economic benefits to the area through the re-use of a building, this does not outweigh the potential harm identified with regards to living conditions of neighbouring residents, which would be long lasting. There is insufficient evidence before me, particularly, as regards noise, to establish that the proposal would be acceptable in that regard.

Conclusion

15. For the above reasons given above, having considered the development plan as a whole, the approach of the Framework and all other relevant material considerations, I conclude that the appeal should be dismissed.

Tamsin Law

INSPECTOR