



Appeal Decisions

Hearing held on 24 May 2022

Site visit made on 26 May 2022

by Mr Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

an Inspector appointed by the Secretary of State

Decision date: 22nd June 2022

Appeal A Ref: APP/T1410/W/21/3274954

Savoy Court Hotel, 11-15 Cavendish Place, Eastbourne BN21 3EJ

- 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 Andre Darabi against Eastbourne Borough Council.
- The application Ref PC/210117, is dated 9 February 2021.
- The development proposed is the conversion of existing Savoy Court Hotel into HMO accommodation with 32no bedrooms with shared facilities and 1no self-contained 1 bedroom flat. Resubmission of previous applications 200391/200392.

Appeal B Ref: APP/T1410/Y/21/3274958

Savoy Court Hotel, 11-15 Cavendish Place, Eastbourne BN21 3EJ

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a failure to give notice within the prescribed period of a decision on an application for listed building consent.
- The appeal is made by Mr Andre Darabi against Eastbourne Borough Council.
- The application Ref PC/210118 is dated 9 February 2021.
- The works proposed are the conversion of existing Savoy Court Hotel into HMO accommodation with 32no bedrooms with shared facilities and 1no self-contained 1 bedroom flat. Resubmission of previous applications 200391/200392.

Decisions

Appeal A Ref: APP/T1410/W/21/3274954

1. The appeal is dismissed.

Appeal B Ref: APP/T1410/Y/21/3274958

2. The appeal is allowed and listed building consent is granted for the conversion of the Savoy Court Hotel into HMO accommodation with 29no bedrooms with shared facilities and 1no self-contained 1-bedroom flat, at 11-15 Cavendish Place, Eastbourne BN21 3EJ, in accordance with the terms of the application Ref PC/210118, dated 9 February 2021, and the plans submitted with it, subject to the conditions at the end of these decisions.

Preliminary Matters

3. As the proposal concerns a listed building in a conservation area, I have had special regard to sections 16(1), 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
 4. The appellant confirmed the number of bedrooms proposed is 29. The formal decision in appeal B reflects this, and omits superfluous description.
 5. While the Council is preparing a new Local Plan, this has not progressed beyond the issues and options stage, which limits the weight I can attach to it.
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Main Issues

6. The main issues are the effect of the proposals on:
- the living conditions of surrounding occupiers;
 - tourist accommodation use in the Tourist Accommodation Area (TAA);
 - the architectural and historic significance of the grade II listed building 1-24 Cavendish Place, and any of the features of special architectural or historic interest that it possesses; and,
 - parking pressure in the surrounding streets, and the free flow of traffic.

Reasons

Living conditions of surrounding occupiers

7. It was agreed at the Hearing that Sussex Police, who initially objected to the proposal, have since been reassured by measures implemented at the Hotel since it began providing temporary and emergency accommodation during the Covid pandemic, as a kind of quasi house in multiple occupation (HMO). They no longer object to the proposed development.
8. Notwithstanding this, Sussex Police report that this area, which holds a concentration of HMOs, has the highest number of crimes in Eastbourne. They describe how crime and disorder continues to spill out onto the street, with high levels of violent crime and public place violent crime in this area. The area also suffers from drug and alcohol related harm such as drug debt enforcement, street drinking, drug waste and open drug use and anti-social behaviour.
9. While I take into account that the Police do not object to this proposal, the context of crime it describes from the concentration of HMOs in this area, suggests that the residential amenity of the area is already compromised. Indeed, the notices I saw on buildings in the same street asking for people to stop sitting on the private stairways to front doors and leaving empty bottles and cigarette butts, suggest that conflict already exists.
10. Because of the location of the communal living and dining room on the lower ground floor, contained by light wells and facing onto the street, I do not find that there would be a material risk of escaping noise likely to disturb the residential neighbours to each side. Notwithstanding this, the communal back garden would be small for a development of up to around 48 residents, particularly so where the rooms generally have no private amenity space of their own.
11. I have taken into account that the communal living and dining room would provide some amenity space for future occupiers. However, the layout suggests this is more focused on dining than relaxation. I acknowledge that the garden presently serves the hotel that can accommodate a greater number of guests than the residents in this proposal. However, visitors and tourists tend to stay for a short time. Unlike residents of an HMO, guests of a hotel do not generally rely on its back garden for amenity. They tend to spend their time and money visiting leisure, tourist or business attractions in the town or in the wider area. Moreover, as discussed below, the amount of storage space for bicycles is inadequate. This means that more space may be lost from the already small garden to allow more bicycles to be stored, which would further reduce the amenity space for future occupiers.

12. In these circumstances, the risk the Council described of future occupiers using the street for amenity, with the associated risk of noise and disturbance from such a high number to surrounding occupiers, would be a realistic prospect.
13. The level of occupation proposed would also result in a substantial increase in the comings and goings of future occupiers, when compared with the flats beside the Hotel and those in the same street. The intensity of occupation of the building by so many unconnected households, would lead to an increase in the comings and goings of occupiers at different times of the day with differing patterns of behaviour and is likely to result in a conflict with the neighbouring residential uses in the immediate vicinity.
14. Given the number of potential future occupiers, alongside the concentration of HMOs in this area, and the context of the street crime in this area, described by the Police as somewhat [sic] of a tinder box, I conclude that from a development with this intensity of occupation, there would be an adverse effect on the living conditions of surrounding occupiers from noise and disturbance in the street.
15. I recognise that the HMO would be managed by a team of on-site and live-in staff. I saw many of the intended measures already in place at the premises today, including behaviour contracts and records, tenant vetting, behaviour monitoring, closing time, security cameras, secure post and parcel distribution, and well-managed, frequent, commercial waste removal. I also note that the manager is part of the Eastbourne Crime Group and he liaises with the Police. These are all positive aspects of the operation of the proposed HMO. There is no doubt, as attested to by the Police's change in stance, that the appellant, who has turned around a failing HMO elsewhere, demonstrates that, under his personal control, the HMO would be efficiently operated.
16. However, and notwithstanding that some of the management controls, for instance the ban on alcohol consumption, could not be enforced under a planning condition and would not pass the tests for their imposition, the planning system controls land use rather than individual operations, which means that a different operator might manage the HMO quite differently.
17. The appellant referred to numerous HMOs in the area. I understand his frustration at these HMOs, many of which may lack the effective operational controls of his proposal and which may be contributing to the context of street crime and anti-social behaviour described above. However, while these HMOs may have licences to operate and may have been granted certificates of lawful development or may have changed use under permitted development rules, the Council has consistently refused express planning permission for HMOs in the TAA.
18. It was agreed at the Hearing that if the scheme¹ allowed in July 2019 to convert the hotel into flats were implemented, this would introduce around 42 residents. However, this number of occupiers is less than the potential number of occupiers in this proposal. Moreover, the occupiers of flats tend to be less transitory and the flats would have their own separate living spaces.
19. I conclude on this issue that the proposed development, because of the intensity of occupation proposed and in the present street crime and street

¹ Appeal Refs APP/T1410/W/18/3212337 & APP/T1410/Y/18/3212467

anti-social behaviour context, would lead to noise and general disturbance in the street. This would harm the living conditions of surrounding occupiers.

20. The development would be in conflict with policies B2 and D1 of the Eastbourne Core Strategy Local Plan 2013 (CS) which recognise that the sustainability of neighbourhoods will be improved by addressing the issues specific to the individual communities, and which require development to protect the residential amenity of residents and to deliver social and environmental well-being. It would also conflict with policies HO9, HO14 and HO20 of the Eastbourne Borough Plan 2001-2011 (BP) and policy TC6 of the Eastbourne Town Centre Local Plan 2013, which protect the amenity of surrounding occupiers in terms including noise and general disturbance. To this conflict between the proposal and the development plan I attribute significant weight.
21. It would also be at odds with the National Planning Policy Framework (the Framework) which says in section 12 that decisions should ensure developments create attractive, welcoming and distinctive places to live, with a high standard of amenity where crime and disorder do not undermine the quality of life or community cohesion and resilience.

Tourist accommodation use in the TAA

22. While the Core Strategy resists in policy D3 the loss of visitor accommodation, the Council does not object to the loss of the hotel use. Indeed, the planning permission and listed building consent granted in July 2019 would allow the change of use from hotel to self-contained flats. The acceptability of the loss of the hotel use is not contested.
23. Notwithstanding this, the Council objects to the change of use into an HMO. The Core Strategy sets out a vision for the Seaside area in policy C3. This promotes new housing through redevelopments and changes of use, but it also seeks to defend existing tourist accommodation from inappropriate development.
24. BP policy HO14 generally allows the establishment of HMOs except in the Tourist Accommodation Area (TAA), in which the appeal site is located. BP saved policy TO1 concerns the TAA. It says that planning permission will not be granted for proposals which are incompatible with tourist use. It requires development in the TAA to be considered with regard to the different lifestyles and special requirements of tourists, including against residential and visual amenity; hours of operation; and safety and security.
25. The Council's Tourist Accommodation Retention supplementary planning document 2017 suggests that the provision of HMOs is a significant threat to the attractiveness of the seafront, and that in the prime tourist areas they do not portray a positive image of the destination and could adversely impact the visitor experience. The Council was concerned by the proximity of the proposal to the pier, an important visitor attraction of Eastbourne, which attracts two million of the five million visits made every year to the town.
26. Turning to the assessment criteria in BP policy TO1, it was agreed at the Hearing that the hours of operation criterion is not relevant to this proposal. Furthermore, there are no significant alterations proposed to the outside of the building which would be overhauled and redecorated. The effect of the proposal on the visual amenity of the street would therefore be a positive one. The visual amenity criterion of BP policy TO1 is therefore satisfied. So too is CS

policy D3 which resists changes which would lead to a downgrading in the town's cultural integrity or appearance.

27. I have already noted that the Police do not object to this proposal. There are no direct implications from the proposal which would conflict with the safety and security criterion of BP policy TO1. However, the context of crime they describe from the concentration of HMOs in this area, suggests that the attractiveness of existing tourist accommodation in this area is delicately poised. More significantly, I have concluded on the first main issue that the proposed development would harm the living conditions of surrounding occupiers. It follows therefore, that the criterion in BP policy TO1 of the effect on residential amenity is not satisfied.
28. I acknowledge the appellant's point that this street is off the beaten track of tourists. However, even though it is away from the main route from the railway station to the seafront, and it leads to and from the seafront rather than along it, this short length of street contains hotels at each end. These make it likely that tourists will be using the street frequently. Moreover, its attractive architecture, and its position between the shops of Seaside Road and the seafront, marked by the memorial statue of the Royal Sussex Regiment looking out to sea, make it an inviting, landmarked street for visitors to Eastbourne.
29. I conclude that the proposed development would not be compatible with the tourist accommodation use in the TAA. It would conflict with BP HO1 which says that HMOs in the TAA will not be permitted, and policy TO1 which says that planning permission will be refused for proposals in the TAA which are incompatible with the tourist accommodation use and which requires the consideration of the effect on residential amenity. It follows that the proposal would also conflict with CS policy C3 where it seeks to defend existing tourist accommodation from inappropriate development. To this conflict between the proposal and the development plan I attribute significant weight.
30. It would also run at odds with the Framework which says in paragraph 81 that decisions should help create the conditions in which businesses can invest, expand and adapt, and paragraph 83 which advises that decisions should recognise the specific locational requirements of different sectors.

The significance of the listed building

31. The hotel spans what was formerly three houses standing in the centre of a long terrace of smart, stuccoed, mid-C19, seaside townhouses. The front walls of the centre house have been set slightly forward of the other sections of the terrace, and they incorporate decorative quoining and a central pediment at the upper parapet, giving it a subtle prominence in the terrace.
32. The listing covers the terraces on both sides of the street. There is a distinctive rhythm of curved bays across the facades of the terraces running from the basement level up to the second floor, emphasised by delicate canopies curving around the heads of the first-floor windows. Beside each bay, a short stair from the street springs over a short basement lightwell, to a semi-circular headed opening for the front door. Balancing the vertical modulation of bays, canopies and stairways, are slender balconies running along the cills of the first-floor bay windows. These are enclosed by low, delicate ironwork above decorated timber fascias. Curbed, spearhead railings wrapping around the basement lightwells smartly enclose the street edge.

33. Inside the building, the conversion of these three houses into a hotel appears to have necessitated the removal of sections of party wall and the insertion of partitions and additional services. This has resulted in losses of historic plan layout and historic fabric, from the removal of a stair between two floors, the insertion of a passenger lift, sub-division of rooms, and the part removal of a party wall, disturbing the unity and spatial arrangement of each house.
34. Notwithstanding this and that the terraces were built between 1851 and 1855, their likeness, their length, and their enclosure of the street makes for an imposing demonstration of apparently late Regency seaside housing. The overall, architectural effect is of a modest and refined elegance, marking out the start of a significant phase of seaside development in Eastbourne, following the arrival of the railway.

The effect of the proposal on the significance of the listed building

35. There are two potential effects from the proposal on the significance of the listed building. First, from the physical changes to the building, and second, from the new use to which it would be put.
36. There are no significant works proposed outside to the fabric of the building. The alterations to the spatial layout inside the building would generally follow the existing layouts, using existing service runs. This would minimise the need for significant interventions to the fabric of the building. Moreover, many of the previous, insensitive alterations in the building would be removed. For instance, the insensitive subdivision of rooms by partitions running into the window openings would be reversed, and the single ground floor room spanning across two houses would be returned to two individual rooms.
37. I appreciate the Council's point that the proposals lack the detail of the security and management measures which may affect the significance of the listed building. However, given the limited extent of the physical works, the condition of the building, and the previous alterations which have already had an effect on its significance, and following my inspection in the building, I consider that a condition requiring details of fabric changes and services routing would be able to preserve the historic and architectural special interest of the building and its significance.
38. Insofar as the listed building contains houses intended for individual occupation, and the proposal is for their multiple occupation in combination, there would be a change in the character of use. However, the rooms of the multiple occupation would be contained largely to what appear to have been habitable rooms in the original layout, with the circulation areas remaining in common use. The intensity of use from different occupiers as proposed would not in my view change to a material degree the architectural character of the building or its special historic interest and significance.
39. I appreciate the Council's point that the proposed use, unlike the use of the houses for individual, single dwellings, may not be the optimum viable use of this section of the listed building. However, I have found no harm to the significance of the listed building from these proposals which would prompt the public benefits test to which it refers. I also heard that the layout in this proposal would avoid the horizontal subdivision in the approved scheme for flats. Overall, the removal of insensitive works and the return of some principal subdivision in the building would sustain and enhance its significance, in accordance with paragraph 197 of the Framework.

40. I conclude that subject to conditions for details of the security measures, fabric alterations, and the routing of any new services as may affect the significance of the listed building, the proposals would preserve the architectural and historic significance of the grade II listed building 1-24 Cavendish Place, and the features of special architectural or historic interest that it possesses. There would be no conflict with CS policy D10 nor with BP policy UHT17 which protect listed buildings from alterations that would adversely affect their character, appearance or fabric.

Parking pressure in the surrounding streets and the free flow of traffic

41. There is no car-park on-site, and no off-street parking spaces are proposed. The appellant estimates that the proposed use would generate demand for 9 car-parking spaces. I acknowledge the Council's objection about the scope of the appellant's transport statement. However, the appellant has referred to data from the Office of National Statistics on the car ownership of those with the lowest income. The Council did not refer to a parking standard or evidence of parking demand from the proposed use. In the absence of any demand data to the contrary, there is nothing to suggest this is not a realistic estimate of demand.
42. Against this demand of 9 spaces, the Council estimates that the present hotel use generates a need for at least 29 spaces. The proposed use would therefore generate substantially less demand than the present use. It would also generate less demand than the extant permission for the development of 15 flats. In these circumstances, the potential for additional pressure on the parking spaces in the surrounding streets would be lessened by the proposed development.
43. Storage space for up to 16 bicycles is indicated in the back garden. This would provide only around 1 in 3 future occupiers with the opportunity to store a bicycle securely and under cover. The Council did not refer to a bicycle storage standard. I have taken into account that the development is in the town centre and close to public transport services. However, in the absence of any substantive data on the likely bicycle ownership of the future occupiers, and given the lack of car-ownership of future occupiers, and the lack of car-parking in the proposed development, the provision of less than one third would be inadequate. Notwithstanding this, and the consequential effect on garden space from additional storage discussed above, a planning condition could secure a more effective proportion of storage spaces to promote sustainable transport, as sought by the Framework.
44. I conclude on this issue that, given the location of the development in the town centre, close to bus and train services, employment, shops, services and facilities, there would, subject to a planning condition for more bicycle storage spaces, be no conflict from the proposed development in terms of transport with the development plan. It would not lead to unsustainable parking pressure in the surrounding streets. Nor would it adversely affect the free flow of traffic.
45. There would therefore be no conflict with CS policy D8 which aims to reduce the reliance on the private car and which supports alternative, sustainable travel choices, nor with BP policy TR11 which requires parking provision to reflect local public transport accessibility. Neither would it be at odds with the Framework which requires appropriate opportunities to promote sustainable transport modes are taken up and that development should only be refused on

highway grounds if there would be an unacceptable impact on highway safety or if the residual cumulative impacts on the road network would be severe.

Other Matters

46. The Town Centre and Seafront Conservation Area is significant for the unity of its master-planned C19 architecture of prestigious hotels, affluent seaside houses and the formal arrangement of streets leading to the seafront. There are no external alterations proposed. The additional intensity of use would not be so great that the proposal would harm the character or appearance of the conservation area to the desirability of the preservation of which the Act requires that special attention be paid. There would be no conflict with CS policy D10 nor with BP policy UHT15 which require development in conservation areas to preserve or enhance their character, setting, and appearance.

Planning Balance

47. I have found that the proposed development would preserve the architectural and historic significance of the listed building. It would not lead to unsustainable parking pressure in the surrounding streets. Nor would it adversely affect the free flow of traffic.
48. The Council accepts that it cannot demonstrate a 5-year supply of deliverable housing sites. It confirmed at the Hearing that its supply amounts to only 1.8 years; a very considerable shortfall. In these circumstances, and where the application of policies in the Framework which protect designated heritage assets do not provide a clear reason for refusing the development, as in this case, the tilted balance of paragraph 11 of the Framework is engaged.
49. The Borough Plan dates from 2003 but the weight to be attached to it does not hinge on its age. Rather, paragraph 219 of the Framework makes it clear that due weight should be given to existing policies according to their degree of consistency with the Framework. The Framework does not protect tourist accommodation areas but it does indicate that each area should be allowed to build on its strengths. HMO development is not precluded, but the Framework expects decisions to create the conditions in which businesses can invest, expand and adapt, with significant weight to be placed on the need to support economic growth and wider opportunities for development. Moreover, the development plan policies which protect residential amenity are broadly consistent with the Framework.
50. Even taking account of the government's objective of significantly boosting the supply of housing and the Council's housing land supply position, the conflict between the proposal and the policies of the development plan which control development in the TAA and which protect residential amenity should therefore be given significant weight. The proposal would conflict with the development plan when considered as a whole.
51. The Council calculated that the development would provide the equivalent of 17 dwellings. It would also satisfy an identified need for accommodation of this type and help to meet the demand from young professionals and provide downsizing opportunities for older residents, helping to free-up larger homes for family accommodation. Conversion works, and the spending of future occupiers in the local economy and their commissioning of local services and use of facilities would also bring some economic benefits. Its use would secure employment. Because of the relatively small scale of the proposal and its

equivalent number of dwellings, and in the light of the identified shortfall of housing supply, I give these benefits modest weight.

52. The removal of insensitive partitioning and the return of some compartmentalisation in the listed building would return some historic significance to the building which has been listed for its special historic and architectural interest. A viable use for the building would help to secure its conservation. The layout in this proposal would also have heritage benefits over the extant scheme, which requires greater compartmentalisation. To these heritage benefits, because of their scale or extent, I attribute modest weight.
53. However, the development would harm the living conditions of surrounding occupiers and it would be incompatible with the tourist accommodation use in the area. When assessed against the policies in the Framework taken as a whole, the adverse impacts would significantly and demonstrably outweigh its benefits. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

54. The proposed development would conflict with the development plan as a whole and there are no other considerations, including the provisions of the Framework, which outweigh this finding. Therefore, for the reasons given, the planning application appeal, appeal 'A', does not succeed.
55. Notwithstanding this, the proposed works would preserve the special historic and architectural interest of the listed building, thus satisfying the requirements of the Act, paragraph 197 of the Framework and development plan policies insofar as relevant. Therefore, for the reasons given, the listed building consent appeal, appeal 'B', is allowed.

Conditions

56. In the listed building consent, in addition to the statutory time condition [1], a condition [2] to secure the sensitive type, siting and servicing of any externally fixed CCTV cameras is necessary to preserve the architectural significance of the listed building. Given the very limited extent and nature of the works to remove and reform partitions, a condition [3] which applies to the specific instances of such alterations is sufficient to preserve the features of historic and architectural significance of the listed building.
57. Given the previous alterations in the building, a condition requiring universal making good to match existing fabric would be potentially confusing and unreasonable in scale. Instead, I have added a making-good clause to the conditions concerning the relevant works. A plans condition is unnecessary as the consent is for the works and plans as approved, as set out in the formal decision.

Patrick Whelan

INSPECTOR

Appearances

FOR THE APPELLANT:

Mr Simon Franks
Mr Andre Darabi
Mr Shah

Innerdale Hudson Architects
Appellant
Freeholder, Savoy Court Hotel

FOR THE LOCAL PLANNING AUTHORITY:

Mr James Smith BSc DipTP

Ms Anna Clare
Ms Annie Wills
Mr Christopher Connelly
Mr Mark Cotman

Cllr Margaret Bannister

Cllr Stephen Holt

Specialist Advisor for Planning,
Eastbourne Borough Council (EBC)
Senior Planning Policy Officer, EBC
Head of Tourism and Enterprise, EBC
Specialist Advisor for Conservation, EBC
Vice President, Eastbourne Hospitality
Association
Lead Cabinet Member for Tourism and
Culture Services and Ward Member for
Devonshire Ward, EBC
Ward Member for Devonshire Ward, EBC

Schedule of conditions

Appeal B Ref: APP/T1410/Y/21/3274958 Listed Building Consent

- 1) The works authorised by this consent shall begin not later than 3 years from the date of this consent.
- 2) Prior to the installation of any external cameras, full details of their size, colour, siting, the necessary cabling and ducting, and the method of making good any disturbed building fabric, shall have been submitted to the local planning authority and approved in writing. The works shall be carried out in accordance with the approved details.
- 3) Prior to the commencement of any works to the fabric of the building, full details of any new partitions and any new services, connections, runs and drops, and the method of making good any disturbed building fabric, shall have been submitted to the local planning authority and approved in writing. The works shall be carried out in accordance with the approved details.

END OF SCHEDULE OF CONDITIONS