

Appeal Decision

Site visit made on 20 June 2022

by J Bell-Williamson MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/X3540/W/22/3290649

7 Sea Road, Felixstowe IP11 2AU

- 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 John Gulston (Sea Road Developments) against the decision of East Suffolk Council.
 - The application Ref DC/21/1549/FUL, dated 24 March 2021, was refused by notice dated 17 December 2021.
 - The development proposed is conversion of ground floor commercial unit to provide new homes, including minor ground floor infill.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of ground floor commercial unit to provide new homes, including minor ground floor infill at 7 Sea Road, Felixstowe IP11 2AU. The permission is granted in accordance with the terms of the application Ref DC/21/1549/FUL, dated 24 March 2021, subject to the conditions included in the Schedule at Annexe A.

Main Issue

2. The main issue is the effect of the proposal on the availability of commercial floorspace in this location.

Reasons

3. The appeal property is a four storey building with additional accommodation in the roof space and includes a vacant commercial ground floor unit together with residential accommodation comprising 22 flats. It is located on a corner plot next to the junction of Sea Road and Granville Road within the Felixstowe (South) Conservation Area.
 4. Policy SCLP4.4 of the Suffolk Coastal Local Plan (2020) says that employment premises will be protected for their established B class use unless there is evidence that the premises have been marketed for a sustained period of 12 months; and there would be substantial planning benefit in permitting alternative uses. While the policy concerns B class uses, changes to the Use Classes Order since the policy was adopted mean that the majority of former B use classes now fall within new Class E, which includes a broader range of
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uses¹. Moreover, the Council indicates that the original permission for the appeal property and subsequent variation of conditions applications resulted in flexibility in the commercial use of the property, with no evidence of any specific Use Class restrictions. As such, I accept that the building's commercial usage resides within Class E and that the requirements of Policy SCLP4.4 apply to the proposal in this case.

5. The appeal property is located in the Spa Pavilion to Manor End policy area, which includes a mix of uses along the sea front providing attractions for residents and visitors. Policy SCLP12.14 of the Local Plan addresses this area and says that resort related uses will be supported on the Sea Road frontage. Proposals should consider the whole site for resort related uses to provide a vibrant mix of activities. Where this is not possible or unviable there may be opportunities for residential units on upper floors or at the rear of sites.
6. The Council's principal concern with regard to marketing is that the property was marketed during a period of unusual economic circumstances, particularly related to the Covid-19 pandemic, and that an additional period of at least 12 months marketing should be undertaken. Appendix E of the Local Plan includes the key elements of the Council's *Marketing Guidance Best Practice* document. Despite the marketing strategy not being agreed by the Council I am not aware that the Council takes issue with the approach undertaken to marketing in this case; rather it is the particular economic circumstances prevailing at the time that is of concern and, therefore, there is insufficient certainty that a commercial use of the ground floor unit is not viable.
7. The appellant explains that the marketing exercise has been on-going from October 2019 to June 2022, a period of some 32 months. This means that marketing took place for some 16 months outside the Covid-19 lockdown period. Furthermore, 7 months of marketing has taken place since the Council's committee meeting on the planning application, with no end operator coming forward.
8. While I acknowledge the economic context of both the pandemic and, more broadly, the UK's departure from the European Union, the appellant has undertaken a comprehensive marketing exercise for considerably longer than the minimum 12 months required by policy. This includes for a substantive period beyond the Council's decision, which goes some way to addressing the concerns expressed for a further marketing period. Therefore, taking this evidence as whole, it would be unreasonable to conclude that in the particular circumstances of this case the appellant has not met the marketing requirements included in Policy SCLP4.4.
9. Turning to the other requirement of Policy SCLP4.4, I acknowledge the appellant's contention that the policy does not elaborate on the nature of any substantial planning benefits arising from an alternative use; and I agree that such benefits should be proportionate to the scale of alternative use proposed. In this case, the ground floor appears to have been unused since being built, despite the extensive marketing undertaken. Currently, as I saw at the

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 amend the Town and Country Planning (Use Classes) Order 1987 and came into force on 1 September 2020.

inspection, the ground floor is boarded up for security purposes and presents an unsightly frontage within a prominent location on the sea front and within the conservation area. The proposed residential use, with design and materials to match the floors above, would be beneficial in improving the appearance of the building and street scene, and would enhance the appearance of the Felixstowe (South) Conservation Area.

10. Policy SCLP12.14 provides for some flexibility where resort related uses are not possible or unviable. The policy indicates that residential units may be provided in such circumstances on upper floors or at the rear of sites. However, in this particular case, I have found that the proposal does not conflict with Policy SCLP4.4 and the specific benefits outlined, following extensive marketing, can only be achieved through the re-use of the ground floor as a whole. Therefore, the fact that the residential use would not be on an upper floor or at the rear should not weigh against the proposal. While the Council does not have a shortfall in housing land supply, this should not prevent the provision of the four units where no material harm would otherwise arise as a result of the proposal.
11. Accordingly, for all the above reasons, I conclude that in the specific circumstances of this case, as there is no direct conflict with Policies SCLP4.4 and SCLP12.14 of the Suffolk Coastal Local Plan as described above, the proposal would not have a harmful effect on the availability of commercial floorspace in this location.
12. In reaching this conclusion I have had full regard to the representations made by interested parties, including Felixstowe Town Council.

Conclusion and Conditions

13. For the reasons given above, the appeal should succeed. Of the Council's suggested conditions I have imposed the standard time condition and, to ensure the proper implementation of the proposal, one requiring development to be carried out in accordance with the approved plans. Conditions requiring materials and finishes to be retained are necessary in terms of the building's character and appearance, particularly given its location within a conservation area.
14. A condition to manage construction working hours is necessary in the interests of residential amenity; and the use and retention of the areas for parking and bin storage should be controlled to prevent these uses occurring inappropriately elsewhere. Conditions related to flooding and drainage are necessary given the appeal property's seafront location and the need to protect residents and the local environment.

J Bell-Williamson

INSPECTOR

Annexe A

Schedule – conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 200 Revision P.01 (location and site plan), 302 Revision P.01 (site layout plan), 303 Revision P.01 (floor plans) and 304 Revision P.01 (sections and elevations).
- 3) The materials and finishes shall be as indicated within the submitted application and thereafter retained as such, unless otherwise agreed in writing with the local planning authority.
- 4) The working hours in connection with the construction of the hereby approved dwellings shall not be other than between 07:30 and 18:00 Monday to Saturday; and no work shall be carried out on Sundays, or Public Holidays, or outside the specified hours, unless otherwise agreed by the local planning authority.
- 5) The areas to be provided for parking and storage of refuse/recycling bins as shown on the approved plans shall be provided in their entirety before the development is brought into use and shall be retained thereafter for no other purpose unless otherwise agreed by the local planning authority.
- 6) The development hereby approved shall be constructed in accordance with the 'Flood Resilient Construction Techniques' as set out within the supporting document received 29 March 2021.
- 7) The development shall be implemented in accordance with the 'Drainage Strategy' as set out within the supporting document received 29 March 2021.
- 8) Prior to first use of the development hereby approved, the occupants of each dwelling shall be issued with a copy of the 'Flood Management Plan' received 29 March 2021.

[End of Schedule]