



Appeal Decision

Site visit made on 16 November 2022

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2022

Appeal Ref: APP/L2250/W/21/3287881

15 Manor Road, Folkestone, CT20 2RZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Campion More Limited against the decision of Folkestone and Hythe District Council.
 - The application Ref 21/0777/FH, dated 30 March 2021, was refused by notice dated 27 May 2021.
 - The application sought planning permission for change of use and conversion from commercial premises to 4 self-contained residential apartments, together with the erection of a 1st and 2nd floor rear extension, external staircase, balustrade and boundary wall without complying with conditions attached to planning permission Ref Y16/0867/SH, dated 11 October 2016.
 - The conditions in dispute are Nos 2 and 3 which states that:
 - (2) The development hereby approved shall be carried out in complete accordance with the details of materials as specified in the application, unless otherwise agreed in writing by the Local Planning Authority.
 - (3) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans 42401, 42406, 42407, 42408, 42409, 42410 and 42411 all received 02.08.2016
 - The reasons given for the conditions are:
 - (2) To ensure the appropriate appearance of the completed development and in the interests of visual amenity.
 - (3) For the avoidance of doubt and in order to ensure the satisfactory implementation of the development in accordance with the aims of saved policy SD1 of the Shepway District Local Plan Review.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use and conversion from commercial premises to 4 self-contained residential apartments, together with the erection of a 1st and 2nd floor rear extension, external staircase, balustrade and boundary wall at 15 Manor Road, Folkestone, CT20 2RZ in accordance with the terms of the application, Ref 21/0777/FH, dated 30 March 2021, and drawing nos 424/01, 06A, 07A, 08A, 09A, 10B and 11B, subject to the following condition.
 - 1) Notwithstanding approved drawing 424/07A, details of the location of the bin storage area shall be submitted to the local planning authority for its approval within two months of the date of this decision. If necessary, the approved bin storage area shall be provided in accordance with a timetable specified by the local planning authority. Thereafter the approved storage

area shall be retained and kept available for use by the occupants of the development.

Preliminary Matters

2. The development permitted in 2016 to convert the building into four flats has been undertaken. The application sought various changes to the approved drawings. The majority of these are insignificant and unobjectionable. However, uPVC casement windows have been installed in place of the original timber sliding sash windows to the front, side and rear elevations. The revised plans also make no reference to cycle storage in the rear yard. These elements were the subject of the reasons for refusal.
3. The appellant company indicates that it only wishes to appeal against the reason relating to the replacement windows. However, as part of the appeal all relevant considerations should be addressed before deciding whether the conditions in question should be retained. There has been an opportunity for the appellant company to respond to this matter and so no prejudice would be caused by also dealing with the issue of cycle storage.

Main Issues

4. The main issues are the effect of the windows on the character and appearance of the surrounding area and whether adequate provision would be made for the storage of bicycles.

Reasons

Character and appearance

5. The appeal property is at the end of a terrace along Manor Road and on the corner of Bouverie Road West. To the east is the blank façade of Sainsburys and immediately to the west is a tyre and exhaust depot.
6. The new uPVC windows are white and have a simple configuration with a central rail. The images nevertheless indicate that they lack the finesse of the original timber sashes. There are differences in terms of profile, detailing and means of opening. However, the townscape along Bouverie Road West is not especially distinguished and the site is outside of any designated area. More to the point, No 15 is architecturally part of the row of three and a half storey buildings along Manor Road. These all have uPVC windows and so the proposal is consistent with the type of fenestration found nearby. As a consequence the windows do not detract from the overall appearance of the terrace.
7. The Council maintains that the other replacement windows in the area do not justify the insertion of further uPVC windows. However, the windows along Manor Road are part of the street scene and there is no indication that they are likely to revert to suitably detailed timber windows. The proposed windows should be considered within their context. In this respect, they are seen as reflecting the type of fenestration that exists within the buildings to which No 15 is attached. Therefore, they do not appear out of place or unsympathetic.
8. The appellant indicates that the windows were changed for reasons of security, safety and maintenance but they have been judged solely on visual grounds.
9. Due to the similarity with the windows along this section of Manor Road, the installation does not harm the character and appearance of the surrounding

area. As it respects existing buildings, there is conformity with Policy HB1 of the Places and Policies Local Plan. Policy HB8 refers to complementary fenestration but in relation to alterations and extensions to existing buildings. In any event, the windows are compatible with those in the terrace.

Bicycle storage

10. The original scheme contained an annotation of 'secure bike storage' in the rear yard. This has now been removed and the Design and Access Statement anticipates that bikes could be stored within the building.
11. Condition 3) requires that the development be carried out in accordance with the details shown on the submitted plans. However, there are no conditions stipulating that details be provided of any bike storage facility and nothing requiring it to be retained subsequently. Furthermore, the officer report at the time concluded that cycle storage was not an essential facility in a town centre location. Insisting that such provision be made now would be more onerous than the terms of the original permission.
12. Since then, the Places and Policies Local Plan has been adopted. Policy T5 expects one cycle space to be provided per bedroom within individual residential developments. The Council also refers to Building for Life 12. As the flats are below the current internal space standards and all accessed by staircases, it would not be especially practical or convenient for cycles to be kept inside. However, should any residents require a secure external store there would be scope to provide one in the yard alongside the refuse area.
13. The National Planning Policy Framework indicates that opportunities to promote cycling should be pursued. However, reinstating the note on the drawings would achieve nothing when compared to the situation on the ground. Therefore, the issue of the provision of bicycle storage does not represent a reason to retain the existing conditions. The strict conflict with Policy T5 is outweighed by the particular circumstances of the case.

Other Matters

14. The Council accepts that the pre-application service offered to the appellant fell short of what should be expected. However, that is a separate matter.
15. Reference is made to policies within the Core Strategy Review adopted in 2022. However, these are high level policies concerned with the spatial strategy, place shaping and balanced neighbourhoods and are not material in considering alterations to a previously permitted development.

Conditions

16. Because the development has already been carried out, the standard time limit and the conditions in dispute are no longer necessary. The approved drawings are referred to in the decision above rather than by condition. The bin storage area is currently positioned along the western boundary and so has not been provided in accordance with those drawings. Therefore, a condition is required to confirm its location and future retention in the interests of the health and well-being of the occupiers.

Conclusion

17. In their context, the replacement windows are acceptable and as the original 2016 permission did not secure bicycle storage facilities, there is no justification to do so now. Despite the strict conflict with Policy T5, the changes accord with the development plan as a whole. There are no other considerations to outweigh that finding. Therefore the appeal should succeed and a further planning permission should be granted.

David Smith

INSPECTOR