
Appeal Decision

Site visit made on 18 May 2023

by S Hunt BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 June 2023

Appeal Ref: APP/E2734/W/23/3317660

11 Cambridge Road, Harrogate, North Yorkshire HG1 1AA

- 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 Nathan Priestley against the decision of Harrogate Borough Council.
 - The application Ref 22/03093/FUL, dated 8 August 2022, was refused by notice dated 8 December 2022.
 - The development proposed is Change of use from commercial / business use (Class E) to a retail/commercial unit (Class E) and 23 No. serviced holiday apartments (Use Class C1) with associated external alterations.
-

Decision

1. The appeal is allowed and planning permission is granted for change of use from commercial / business use (Class E) to a retail/commercial unit (Class E) and 23 No. serviced holiday apartments (Use Class C1) with associated external alterations in accordance with the terms of the application, Ref 22/03093/FUL, dated 8 August 2022 and subject to the conditions in the attached schedule.

Application for costs

2. An application for costs was made by Mr Nathan Priestley against Harrogate Borough Council. This application is the subject of a separate Decision.

Preliminary Matters

3. The decision was made by Harrogate Borough Council prior to the formation of North Yorkshire Council on 1 April 2023, therefore I have dealt with the appeal with reference to the previous determining authority.
4. A prior notification application¹ for change of use of the building to 11 dwellinghouses was approved by the Council after the determination of the application, and I have had regard to it in my consideration of this appeal.
5. The appeal site is situated within Harrogate Conservation Area therefore I have had special regard to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

¹ 22/04272/PCBSR (1 February 2023)

Main Issues

6. The main issues are:

- The effects on living conditions of future occupiers of the holiday apartments;
- Whether the proposed development would be sustainably designed and adequately provide for energy efficiency measures;
- Whether adequate service and refuse facilities would be provided for the holiday apartments and the potential effects on character and appearance; and
- The effects of the partial loss of retail space on the vitality and viability of Harrogate town centre.

Reasons

7. The appeal site comprises an ornate stone faced four storey terraced building fronting Cambridge Road in Harrogate town centre, with a more modern extension backing onto Cambridge Terrace. The building is currently vacant, having been in previous use as the town's central Post Office.
8. The site lies within Harrogate Conservation Area, the significance of which derives from its growth as a spa town in the 1800's, with a high concentration of fine Victorian buildings. The appeal site lies within the Town Centre sub-area as defined within the Character Appraisal (2010). Here, there are a number of continuous terraces of generally three storey stone buildings which are occupied by a range of predominately commercial uses. Notwithstanding its current vacant appearance and unsympathetic alterations to the ground floor frontage, the appeal building makes a positive contribution to character and appearance of the area.
9. The appellant seeks to retain the front part of the subdivided ground floor as retail/commercial space, and change the use of the remainder of the building to serviced apartments for the business and leisure tourist markets. The apartments would range between 18.8 and 27.7 square metres in area, each room including a sitting area and kitchenette, and en-suite shower room. External alterations would be limited to new rooflights to the central section of roof above ground floor level and an additional window to the rear elevation.

Living Conditions

10. Five of the 23 proposed apartments, namely no's 004 to 008 on the ground floor, would not have a vertical facing window to provide views, natural light and ventilation. These apartments would instead be lit and ventilated by automated opening rooflights. An Internal Daylight Assessment has been submitted by the appellant to demonstrate light levels to the affected ground floor apartments, which has been undertaken in accordance with Building Research Establishment (BRE) guidance Site Layout Planning for Daylight and Sunlight (2011), which can be applied to non-domestic buildings where occupants have a reasonable expectation of daylight. The Assessment satisfactorily concludes that all habitable rooms are compliant with the minimum internal daylight standards outlined in the Guidance.

11. In terms of ventilation, all rooms would be served by either an opening window or automated rooflight. Alternative mechanical ventilation does not form part of the scheme but a proposed condition requires details to be provided. Nonetheless, given that all rooms would be ventilated by windows/rooflights and having regard to the short-term nature of the use, the ventilation as proposed is considered to be adequate.
12. Whilst the CGI images provided by the appellant are illustrative, having regard to the floorplans I am satisfied that each apartment would be of a reasonable size for a short stay, and their size nor lack of outlook to some of the apartments would not result in a significant oppressive feeling of enclosure. The Council's reason for refusal also refers to privacy, however this is unsubstantiated, and I cannot find evidence to demonstrate that there would be any significant harm resulting from overlooking.
13. Business or leisure visitors, who would occupy the apartments on a temporary and transient basis, would generally have lower expectations in relation to living conditions than permanent residents. Whilst an attractive outlook and good light levels may be desirable for holiday accommodation, I would agree that these are unlikely to be primary factors when choosing short term accommodation in a town centre location. Nonetheless, given the restrictive outlook and light/ventilation levels to the aforementioned ground floor apartments in particular, I do not consider they would be suitable for longer term use. The occupancy of the units can be appropriately controlled by condition and I return to this matter later.
14. In concluding on this main issue, I find that the effects on living conditions of future occupiers, with particular reference to ventilation, enclosure, and access to natural light would be acceptable and in compliance with Harrogate District Local Plan 2020 (HDLP) policy HP4 which seeks for development proposals to be designed to ensure that they will not result in significant adverse impacts on the amenity of occupiers.

Sustainable Design

15. The Council refers to HDLP policy CC3 which relates to renewable and low carbon energy proposals, and policy CC4 in relation to sustainable design and reduction of carbon dioxide emissions. At part B policy CC4 specifically refers to the expectation for new developments to incorporate passive design measures that reduce the need for artificial lighting and ventilation. The proposals relate to conversion of a historic building not a new build.
16. I find the Council's concerns in relation to natural lighting of corridors to be unfounded, as the plans indicate that the majority of the corridors would benefit from some level of light from external windows. The ground floor would only have one rooflight, where the light is unlikely to reach other parts of the corridor. Nonetheless, whilst natural light would be desirable, it is not unusual for internal corridors in apartment or hotel buildings (whether new or converted) to lack natural light, nor would it result in any significant harm to living conditions. I also acknowledge the appellant's comments that automated lighting operated by sensors could be utilised, and that the most up-to-date building regulations would need to be separately adhered to.

17. Consequently, I do not find conflict with HDLP policies CC3 and CC4 and the appeal proposals are generally acceptable in respect of sustainable design and energy efficiency.

Refuse Management

18. The external storage of refuse and recycling bins can have an adverse effect on the character and appearance of an area, which would in turn harm the significance of the conservation area. There are also public health implications.
19. The appeal building benefits from a rear service access onto Cambridge Terrace. I noted on my site visit that Cambridge Terrace has a quite distinctly different character to Cambridge Road in its role as a service street, and that many other neighbouring buildings also appear to also have limited space available for refuse storage. It is unclear what previous arrangements were for the Post Office, however the plans indicate an internal storage space available which can be separately accessed from Cambridge Terrace. The imposition of a condition requiring a refuse management plan would appropriately deal with the Council's concern and should not prevent the granting of planning permission. Consequently, I do not find conflict with Policies GS5, HP2, HP3 and HP4 in terms of area character, heritage assets, and amenity.

Vitality and Viability

20. Whilst the HDLP proposals map is not before me, both parties have set out that the appeal site is situated on a secondary shopping street within the town centre. Part of the ground floor of the appeal building, which fronts Cambridge Road, is proposed to be a retail/commercial unit (use class E) of some 108 square metres in floor area. The building currently comprises some 335 square metres of vacant ground floor space, formerly in Post Office use.
21. HDLP policy EC5(A) refers to the loss of existing 'A1' shops in ground level frontages, and states that they will only be permitted where there is no harmful impact on the vitality and viability of the centre. The full frontage of the unit would be retained by the proposals (apart from the existing stairwell access), albeit at a smaller overall floor area. There is no reference in the policy to subdivision of existing retail units, nor is there a requirement to show that the unit has been previously marketed beforehand. I also acknowledge that, given the most recent use of the building, no change of use is necessary and it could currently be subdivided into a smaller unit without the need for planning permission. Furthermore, such works could also be carried out as part of the recent prior approval consent.
22. I have had regard to the comments that the Council's Economic Section and the advice from a commercial agent that a smaller unit would be more affordable for and attractive to individual and independent retailers. There is a lack of evidence before me to suggest that smaller retail and commercial units would harm the vitality and viability of the town centre. Accordingly, I consider that a variety of sizes of unit would add to the choice within Harrogate town centre.
23. Furthermore, use class 'E' allows for a range of uses (unlike the previous use class 'A1' mentioned in the policy), reflecting the need for flexibility in town centres in today's trading climate. The vacancy of the building since May 2019 is suggestive of lack of demand for the large class E unit. I am persuaded that

the proposed subdivision and future uses of this large town centre property would overall make a positive contribution to the vitality of Harrogate town centre.

24. As a result, I do not find conflict with HDLP policy EC5 in respect of vitality and viability, nor policy GS5 which seeks to encourage sustainable economic growth and provide a range of quality business premises.

Other Matters

25. Both parties have referred to case law in relation to the fallback position. Nonetheless, I have found the appeal proposals to be acceptable on their own merits therefore I have made limited reference to the approved prior approval application.
26. I have also had regard to the other redevelopments relating to former shop units in Harrogate town centre referred to by the Council, and acknowledge the positive approach by the Council in supporting a vibrant economic core. However I have limited information about those developments and have determined the appeal on its own merits.
27. Both parties have also referred me to other planning and appeal decisions. However whilst the full details of such proposals are not before me, I do not find them to be directly comparable. The Nell Gwynn House² proposal in particular is of a different scale and nature, and I note that many of the basement units would lack any type of natural light. The development at Warrington³ whilst for the same end user appears to relate to a listed building, and the Cambridge⁴ decision relates to new build residential development and not a conversion to holiday accommodation.
28. The Council refer to the large range of visitor accommodation already available in the town, however I am unable to locate a policy requirement that evidence should be provided to demonstrate that the proposed holiday apartments are needed or that they should be preferred to a larger retail space.

Conditions

29. I have the conditions put forward by both the Council and the appellant against the advice given in paragraph 55 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the Planning Practice Guidance. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability. I have attached conditions limiting the life of the planning permission and relating to the approved plans in the interests of certainty.
30. Details of a waste storage scheme for both the apartments and retail/commercial unit are necessary in the interests of the character and appearance of the area and public health. A ventilation scheme is also required to ensure adequate living conditions as set out in the main issues above.
31. In the interests of the living conditions of nearby occupiers conditions are required in relation to a construction management plan, hours of construction work, and commercial delivery/dispatches to and from the operational

² PINS ref. APP/K5600/W/18/3203496

³ Warrington Borough Council ref. 2019/34702

⁴ PINS ref. APP/Q0505/W/18/3211544

development. Conditions requiring a scheme of sound insulation for the holiday apartments and noise limit from plant and equipment is required to minimise transfer of noise and in the interests of living conditions.

32. I have accepted the more time-limited 28 day holiday occupancy condition put forward by the Council given that due to the limited natural light, ventilation and outlook, the apartments are inappropriate for longer term use. I accept that up to 90 days may be more desirable for use by contractors however I have dealt with the appeal on the basis of their description in the application as holiday apartments. The ability for the Council to inspect the written log of guests is reasonable so that the condition can be enforced if deemed necessary.

Conclusion

33. For the reasons given above I conclude that the appeal should be allowed.

Susan Hunt

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the approved plans: Site Location Plan 1614-100 and Proposed Plans and Elevations 1614-112(P).
- 3) Prior to the occupation of the approved self-contained holiday apartments and retail/commercial unit, suitable and sufficient waste storage facilities shall be provided for the safe and secure on-site storage of waste derived from the apartments and retail/commercial unit to ensure that no detriment to amenity from smell, flies or vermin arises. A scheme detailing the provisions to be made for the safe storage of waste shall be submitted to and approved in writing and not altered without the prior written approval of the local planning authority and shall be maintained for the life of the approved development.
- 4) Prior to the occupation of the approved self-contained holiday apartments and retail/commercial unit, details of a scheme to achieve suitable ventilation to the ground floor self-contained holiday lets shall be submitted to and approved in writing by the local planning authority. The scheme shall not be altered without the prior written approval of the local planning authority and shall be maintained for the life of the approved development.
- 5) No development must commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Plan must include, but not be limited, to arrangements for the following in respect of each phase of the works:
 - a) The parking of all contractors, site operatives and visitors vehicles;

- b) The storage of all plant and materials used in the conversion/development; and
- c) Measures to manage the delivery of materials and plant to the site including the routing and timing of deliveries and the location of loading and unloading areas.

The construction/conversion must then be carried out in full accordance with the approved Construction Management Plan.

- 6) A scheme of sound insulation for the self-contained holiday apartments shall be submitted for approval by the Local Planning Authority; the scheme shall detail the standard of glazing and mechanical ventilation required to ensure that internal noise conditions in all habitable rooms comply with BS8233:2014 and with WHO guideline values for Community Noise for internal sound. The approved scheme shall be implemented in accordance with the details submitted and shall be maintained for the lifetime of the development.
- 7) The combined noise from any fixed installations which comprise mechanical and electrical plant and equipment and the loading and unloading of goods and materials shall be effectively controlled so that the combined rating level of all such equipment does not exceed the background sound level at any time ("rating level" and "background sound level" are as defined in BS4142:2014).
- 8) Construction and conversion works shall take place only between the hours of 08:00 to 18:00 Mondays to Fridays, 08:00 to 13:00 Saturdays and shall not take place at any time on Sundays or on Bank or Public Holidays.
- 9) There shall be no deliveries to or dispatches from the premises or the collection of commercial waste between the hours of 18:00 and 08:00.
- 10) The self-contained holiday apartments hereby approved shall be used as visitor accommodation only and shall not be occupied by any person(s) as their sole or main place of residence. None of the serviced holiday apartments hereby permitted shall be occupied by or let to the same person for a continuous period of more than 28 days. The self-contained holiday apartment manager(s) of these units hereby approved shall keep a written record of all occupants of all these holiday apartments for the lifetime of the development for the inspection of the Local Planning Authority. This written record shall contain full name(s) and contact address(es) for any person(s) that use any of the self-contained holiday apartments.

End of Schedule of Conditions.