The Planning Inspectorate

Appeal Decision

Site visit made on 16 August 2023

by S D Castle BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 August 2023

Appeal Ref: APP/U1430/W/22/3312976
13 Marina Arcade, Bexhill, West Sussex, TN40 1JS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr Simon Callagan against the decision of Rother District Council.
- The application Ref RR/2022/2020/P, dated 11 August 2022, was refused by notice dated 03 October 2022.
- The application sought planning permission for the change of use and conversion of former watch makers premises to form self-contained holiday let without complying with a condition attached to planning permission Ref RR/2015/1136/P, dated 18 December 2015.
- The conditions in dispute are numbers 4, 5 and 6 which state that: 4. The holiday let hereby permitted shall be occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. 5. The owners/ operators shall maintain an up-to-date register of the names of all occupiers of the holiday let, and of their main home addresses, and shall make this information available at all reasonable times to the local planning authority. 6. The holiday let hereby permitted shall not be occupied for more than 56 days in total in any calendar year by any one person.
- The reason given for the conditions is: To ensure that approved holiday accommodation is not used for unauthorised permanent residential occupation in accordance with Policy EC6 (vi) of the Rother Local Plan Core Strategy.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. Planning permission was granted for the conversion of a former watch makers premises for use as holiday accommodation in 2015[1], subject to conditions. Following the Council’s decision on the original planning permission, the Council adopted its Development and Site Allocations Local Plan (LP) in 2019.

3. The appeal application form confirms that the development was completed in 2019. The appellant now wishes to use the property for permanent residential use, requiring the removal of conditions 4, 5, and 6 that were imposed on the original planning permission to ensure the site is used for holiday accommodation only.

[1] Planning Permission Ref: RR/2015/1136/P

Main Issue

4. The main issue is whether restricting the occupancy of the building for holiday purposes is necessary with regard to local and national planning policies.

Reasons

5. The appeal relates to a two-storey mid-terrace property located close to the beach and seafront promenade at Bexhill-on-Sea. The surrounding area has a mix of uses, including public open spaces, housing, holiday accommodation, restaurants and shops. There is no dispute between the main parties that 13 Marina Arcade would be capable of functioning as a permanently occupied dwelling without the need for alteration or extension.

6. The appellant advises that no 13 is currently set up as a private self-contained holiday let, but that it has never been let commercially for holiday accommodation. Nevertheless, following the completion of the 2015 planning permission, the appeal site became part of the stock of tourist accommodation in the area.

7. LP Policy DCO1 requires proposals that involve the loss of sites of social or economic value, including tourist accommodation, must demonstrate that there is no reasonable prospect of a continued use. Part (i) of the policy requires evidence of a comprehensive and sustained marketing campaign, which clearly indicates a lack of demand for the existing use, based on marketing, normally at least 18 months, that offers the unit for sale, or rental, at a realistic valuation for the existing use. Part (ii) of the policy requires evidence that clearly demonstrates that the unit is not or is not capable of being financially viable.

8. Policy EC6 of the Rother Local Plan Core Strategy[2] (CS) encourages tourism activities and facilities subject to a range of criteria, including criteria (iv), (v), and (vi), which taken together, seek to increase the supply of self-catering accommodation and prevent the loss of tourism accommodation, unless there is no prospect of its continued use.

9. The appellant states that the property has been advertised for sale between November 2021 – April 2022 and between October 2022 until the present day. The appellant also states that over 20 viewings of the property have taken place and that there have been 1,903 views[3] of the property on the Rightmove website. Whilst I do not dispute the appellant's assertions regarding the marketing of the property, I have not been provided with any detailed supporting documentary evidence.

10. There is no substantive evidence before me that demonstrates whether or not the price the property has been marketed at is reasonable. The property is part of a characterful building and is located within an attractive area, close to the seafront, restaurants, shops and other tourist attractions. The appellant states that other properties within Marina Arcade are let for holiday accommodation, including no 11, which is also owned by the appellant. There is no inherent reason as to why the property is not well suited to be let as holiday accommodation.

[2] Adopted September 2014
[3] As of 28 July 2023

11. I note that the property has been marketed as a potential commercial investment aimed at buyers wishing to manage and maintain the holiday accommodation. The appellant asserts that the lack of interest in the property as a holiday let reflects its lack of financial viability as a commercial proposition. However, no detailed financial analysis has been provided to support the assertion that letting the property as holiday accommodation would be unviable.

12. I have had regard to the appellant's assertion that the loss of the property from the local supply of tourist accommodation would not be detrimental to the economy given the numerous alternative options in the local area. However, along with the appeal site, the nearby tourist accommodation all contributes to the objective of LP Policy DCO1 to retain sites of social or economic value. Whilst I note that the appellant has seen a decline in bookings at no 11, no analysis of the occupancy rate of holiday accommodation in the local area has been provided. Consequently, I am not persuaded that the other local tourist accommodation options represent evidence of an oversupply of holiday accommodation in the locality.

13. As such, the appellant has not provided substantive evidence of a comprehensive and sustained marketing campaign, that offers the unit for sale, or rental, at a realistic valuation for the existing use, and which clearly indicates a lack of demand. Furthermore, there is no compelling evidence before me to indicate that the property is not capable of being financially viable if let as holiday accommodation.

14. I acknowledge that removing conditions 4, 5 and 6 would enable the property to make a small contribution to local housing supply and that permanent residents would contribute to the local economy through their spending. I afford these benefits limited weight given they relate to a single dwelling.

15. The appellant refers to other examples of properties within Marina Arcade that have been granted approval for change of use to permanent dwellings. However, I do not have full details of the circumstances that led to those proposals being granted planning permission and so cannot be sure that they represent a direct parallel to the appeal proposal. Indeed, the Council states that, in the case of the referred examples, the buildings were not used for holiday accommodation. As such, it would appear that the circumstances of the referred examples were not directly comparable with this appeal.

16. The Council's refusal reason also cites CS Policy EC3 and LP Policy DEC3. As these policies relate to existing employment sites, and the proposal would not result in the loss of an employment site, I have not found conflict with these policies.

17. Overall, the potential loss of the holiday accommodation would be contrary to LP Policy DCO1 and CS Policy EC6, which taken together, seek to retain sites of economic value, including tourism accommodation, unless there is no prospect of its continued use. Removing conditions 4, 5, and 6 without substantive evidence regarding demand, viability and marketing would undermine LP Policy DCO1 and CS Policy EC6 and their aim of ensuring tourist accommodation is retained and thereby contributes to the visitor economy. In this regard, the proposal would also be contrary to guidance within the Framework that supports a prosperous economy. I attribute significant weight to these policy conflicts.

Conclusion

18. The benefits of the proposal would not outweigh the identified development plan and national policy conflict. The conditions remain necessary to ensure that the development does not conflict with LP Policy DCO1 and CS Policy EC6. There are no material considerations that indicate that the appeal should be determined other than in accordance with the development plan.

19. For the reasons above, the appeal is dismissed.

S D Castle

INSPECTOR