



Appeal Decision

Site visit made on 27 February 2024

by David Murray BA (Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25th March 2024

Appeal Ref: APP/Q3115/W/23/3324958

136-138 The Broadway and 3-5 Station Road, Didcot, OX11 8RJ.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Triangle Properties Ltd against the decision of South Oxfordshire District Council.
 - The application Ref is P22/S0557/FUL.
 - The development proposed is internal revisions to the building to create 2 additional flats (1 each at first and second floors) together with alterations to layout of 2 previously permitted flats (1 each at first and second floors).
-

Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the two additional flats would provide reasonable living conditions for the occupiers without being harmed by noise and disturbance; and
 - Alternatively, whether the residential flats as proposed would be likely to give rise to complaints about noise which may affect the operations of the adjacent Broadways Public House.

Reasons

Background

3. The appeal site comprises a three-storey building on the corner of The Broadway and Station Road in the centre of Didcot. The building has commercial uses on the ground floor and the parts of the building facing the Broadway and the Market Place have residential uses at first and second floor level but offices on a similar level facing Station Road. It is this part of the building that the proposal seeks to convert into two additional flats. The local area contains main town centre uses with an arts centre and cinema close by as well as the Broadways public house on the opposite side of Station Road.
4. There is no objection in principle to the formation of the new residential flats at first floor and second floor level. The sole issue is whether the occupiers of this accommodation would be likely to suffer from noise and disturbance particularly from the Broadways pub, or if allowed, whether it is likely there would be complaints from the occupiers which could restrict the operation of the pub. The appellant's noise consultants say that the pub is open until 0300

hours on Friday and Saturday nights and I noticed at the site visit that the list of entertainment mentioned on the board outside of the pub included: Discos; Karaoke; Parties (both normal and specialised) and Quizzes.

Effect on Living conditions

5. As part of the appeal scheme the appellant has submitted an Environmental Noise Survey and Acoustic Design Statement. This was prepared in Sept 2019 and therefore before the Covid restrictions and subsequent changes in the pattern of socialising in the evening but is nevertheless considered to reasonably assess the issue of noise and disturbance.
6. Data arising from the noise surveys has been considered in respect of the 'desirable' standards set out in BS8233:2014 for daytime resting / dining and night-time sleeping. The report concludes that with the existing windows closed expected internal noise levels within the flats would be 31-34 dBA in daytime and 29-32 dBA at night-time.
7. Therefore, in relation to BS8233 internal noise levels would be likely to be of a range which meet the desirable standard in the daytime but would likely be of a range which would partly exceed the standard at night time. However, the assessment suggests that the dominant external noise source was from surrounding roads including the bus stop on Station Road, rather than The Broadway. In the light of the assessment, the appellant proposes to have the windows to the new flats permanently fixed closed but with mitigation in the form of a permanent mechanical ventilation system.
8. At my site visit I considered the nature of the proposed flats and the existing windows. These are sliding 'sash' uPVC windows which are double glazed. At first floor level there would be bedroom and hall windows on the elevation facing Station Road and the Broadway and on the angled elevation on the corner there would be four further bedroom windows and then two living room/kitchen windows at the far end. At second floor level there would be a similar format of windows in the mansard roof with bedroom windows immediately facing Station Road and the living room/kitchen windows at the far southern end of the space.
9. The acoustic evidence presented appears to show that the use of the living quarters would be within a desirable level but the sleeping rooms would largely not be, even taking account that the windows would have to be permanently fixed shut and the inhabitants would have to rely on some form of mechanical ventilation. I have real doubts over the practical enforceability of a condition requiring the existing windows to be kept shut in hot summer months especially those located in the second floor roofspace, notwithstanding that a mechanical ventilation system could be installed and retained (in principle) by the imposition of a planning condition.
10. Given that most of the first and second floor of the building has already been converted into flats it appears to me that the residue of space is not proposed to be laid out in a way which minimises the effect of external noise on sleeping spaces. Further, the Thermal Comfort Analysis report appears to mention various mechanisms that could be installed so as not to result in overheating issues compromising the ability to have windows permanently closed where required. However, no detailed scheme has been submitted as part of the appeal to establish that this concern can be overcome in the long term.

11. I have taken account of the general location of the appeal site building in a town centre where there are uses related to leisure and the night-time economy and where some degree of hubbub and activity locally could be expected. I have also had regard to the appeal decision at Benson¹ as put to me but the circumstances of that site in a countryside setting, and with the noisy activity associated with RAF Benson closeby, are materially different to those applicable to this appeal.
12. Overall, on this issue I find that it has not been demonstrated that the conversion to the two flats proposed can be undertaken in a manner that would ensure that the occupiers have reasonable living conditions, particularly regarding their ability to sleep peacefully at night. Neither has it been shown that poor living conditions can be adequately mitigated against and retained in perpetuity that meet the set tests of planning conditions.
13. On this basis the proposal conflicts with the provisions of Policy ENV11 of the South Oxfordshire Local Plan 2035.

Effect on operation of a public house

14. The Council alleges that if the appeal was allowed the occupiers of the new flats would be likely to make complaints about the noise generated from the operation of the Broadways public house which could constrain an established venue. However, there is little evidence submitted to substantiate this concern. Given my conclusion on the first issue, I have not been able to consider the second issue as a determinative one.

Planning balance

15. On the main issue I have found that it has not been demonstrated that the new flats would provide reasonable living conditions for the occupiers particularly over the protection of bedrooms from intrusive noise levels. Moreover, I am not satisfied that the proposed mitigation would be likely to resolve this issue in perpetuity. The harm to internal living conditions that would be caused by external noise means that the proposal conflicts with the relevant policy in the development plan.
16. This has to be balanced with other considerations, but none put forward outweighs the harm that would be caused and this indicates that the appeal should not be allowed.

Conclusion

17. For the reasons given above I conclude that the appeal should be dismissed.

David Murray

INSPECTOR

¹ APP/Q3115/W/16/31633844.