



Appeal Decision

Site visit made on 23 October 2024

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 November 2024

Appeal Ref: APP/R1845/W/24/3341721

109-111 Coventry Street, Kidderminster, Worcestershire DY10 2BH

- 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 Mr James Swanson of KTR88 Ltd against the decision of Wyre Forest District Council.
 - The application Ref is 23/0184/ful.
 - The development proposed is 'change of use of premises from offices to 10 bedroom HMO'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development on the application form included details about the site's location. Therefore the description of development above omits those location details and uses only the first sentence that adequately described the proposal.
3. During the Council's determination of the application, the proposal was amended such that proposed bedrooms 4 and 5 were changed to be used as communal living space. The Council confirmed that the application was determined on the basis of those revised plans (Ref 1145-10A and 1145-11A), such that the proposal was for 8 rather than 10 bedrooms. Therefore, notwithstanding the description in the heading above, the proposed development is 'change of use of premises from offices to 8 bedroom HMO'. I have determined the appeal on that basis.
4. The Council's reason for refusal related to the effect of the proposal on the character of the area and town centre viability. However, the Council's officer report also made reference to a concern in respect of the absence of windows in certain rooms. Accordingly and in the interests of fairness, the views of the main parties were sought on whether the proposal would achieve acceptable living conditions for its future occupants, with particular regard to access to natural light.
5. Subsequent to the Council's decision, prior approvals were granted for the change of use of the appeal building to flats (Ref 24/0162/PNS and 24/0008/PNC). In the event that the appeal is unsuccessful it appears reasonably likely that the prior approvals would be implemented. Therefore they amount to a valid fallback position to which I afford considerable weight (the fallback position).

Main Issues

6. The main issues are:

- the effect of the proposed development on the character and appearance of the area and the viability of Kidderminster town centre; and
- whether it has been demonstrated that the proposal would provide adequate living conditions for its future occupants, with particular regard to access to natural light in bedroom 6.

Reasons

Character, appearance and viability of the town centre

7. The appeal site is in a relatively prominent location within Kidderminster town centre and is described as being a secondary shopping frontage in the Wyre Forest District Local Plan (April 2022) (Local Plan). The ground floor of the building appears vacant and is said to have been vacant for some time. Consequently, it does not provide an active frontage or contribute to the vitality of the town centre.
8. The ground floor of the appeal building currently displays a number of floor to ceiling windows that are typical of commercial units in a town centre location. These are proposed to be reduced in size to create more suitable windows for a ground floor residential use. Nonetheless, it is not particularly unusual for there to be residential uses at ground floor level in a town centre location. Rather than detracting from the character of the area here, it would bring a welcome sense of life and overlooking of the public realm. I note also that the fallback position would result in the entire building being converted into flats. Therefore, the use of the building could be changed to a residential one at both ground and first floor level, regardless of the outcome of this appeal.
9. Therefore, I conclude that the proposal would not harm the character, appearance and viability of the town centre. It would therefore accord with Policy DM.3 of the Local Plan. This supports the subdivision of buildings into flats subject to certain criteria, including that proposals do not harm the character and appearance of their surroundings. It would also accord with Policy DM.13 part 3 of the Local Plan. This supports alternative uses in secondary shopping frontage such as this, as a means of improving the vitality of town centres.

Living conditions

10. During the Council's determination of the proposal, concerns were raised about the lack of windows in proposed bedrooms 4, 5, 6 and 7, resulting in a lack of natural light and ventilation in those rooms. The scheme was subsequently amended such that bedrooms 4 and 5 would be communal living space. Whilst bedrooms 7 and 8 are said to have natural light from light wells, it appears that bedroom 6 would be without a window or any access to natural light. No substantive evidence has been submitted to the contrary.
11. Whether or not there is a mechanism to provide adequate ventilation to these rooms, without adequate access to natural light, the living conditions in bedroom 6 would be oppressive. I note that the appellant has stated their willingness to accept restrictions on the proposal so as to enable the appeal to

succeed. Nevertheless, the appeal process should not be used to evolve a scheme, such that the proposal that is considered at appeal should be essentially the same as was considered by the Council and interested parties.¹ No exceptional circumstances indicate that a different approach would be justified in this instance.

12. Although there are separate licensing requirements for houses in multiple occupation (HMOs), that does not justify granting planning permission for a scheme that would provide unacceptable living conditions. It appears that bedrooms in the fallback scheme would be provided with windows or top lights and therefore would have access to natural daylight. Consequently, the presence of the fallback position does not help to justify the proposal in respect of this main issue. Whilst the appellant states that the quality of the proposal would be akin to a luxury hotel, access to natural daylight in bedrooms is a key component of achieving suitable living conditions.
13. Therefore, for the reasons given, I conclude that it has not been demonstrated that the proposal would provide adequate living conditions for its future occupants, with particular regard to access to natural light in bedroom 6. No specific policy was mentioned in relation to this matter. However, the proposal would be contrary to the requirement within the National Planning Policy Framework for developments to provide a high standard of amenity for existing and future users.

Conclusion

14. The proposal would make use of a vacant building in a town centre location where there is access to a range of services and facilities. However, as it would not provide adequate living conditions for its future occupants, the proposal as submitted cannot be supported.
15. Therefore, for the reasons given, the appeal is dismissed.

Rachel Hall

INSPECTOR

¹ Procedural Guide: Planning appeals – England (updated September 2024): Paragraph 16.1