



Appeal Decision

Site visit made on 21 January 2025

by G Bayliss BA (Hons) MA MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 27 January 2025

Appeal Ref: APP/B1930/W/24/3341695

48 High Street, Redbourn, Hertfordshire AL3 7LN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant subject to conditions of consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mr Christopher Higenbottam, Atelier Architecture and Design, against the decision of St Albans City Council.
 - The application Ref 5/2023/2243 sought approval of details pursuant to condition No 5 of a planning permission Ref 5/2016/2752 granted on 2 December 2016.
 - The development proposed is change of use of first floor from Class B1(a) (office) to Class 3 (residential) to create one bedroom flat and associated alterations.
 - The condition in dispute is No 5 which states that: Before building works commence a scheme providing for the insulation of the proposed dwelling against the transmission of noise and vibration from the below commercial unit, shall be submitted to and approved in writing by the Local Planning Authority. Any works which form part of the scheme shall be completed to the satisfaction of the Local Planning Authority before any of the permitted dwellings are occupied.
 - The reason given for the condition is: To ensure that adequate precautions are implemented to avoid noise nuisance, in accordance with Policies 82 and 83 of the St. Albans District Local Plan Review 1994.
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Decision

1. The appeal is allowed, and the details submitted pursuant to condition 5 attached to Planning Permission Ref. 5/2016/2752, granted on 2 December 2016, are approved in accordance with the application Ref. 5/2023/2243 and the details submitted with it. The approved details include plans TD18/AEA07/P05 Rev.E and Ref.TD18/AEA07/P09 Rev.A.

Preliminary Matters

2. The Government published a revised version of the National Planning Policy Framework (the Framework) on 12 December 2024. I have considered its amendments against the earlier version and against the parties' appeal evidence. I have also updated Framework paragraph numbers where necessary. However, I have not gone back to the parties for comment, as I do not consider the Framework changes to be substantive or determinative to the outcome of this appeal.
3. The appellant refers to the Council citing incorrect development plan policies in its reason for imposing condition 5 on planning permission Ref.5/2016/2752. Whilst this may be the case, and I do not appear to have been provided with alternative, valid policies, paragraph 135 of the Framework requires development to ensure a high standard of amenity for existing and future users. In this regard I find the reason for imposing the condition is sound.

4. The appeal property is a Grade II listed building. As such, I am aware of my statutory duty with regards to Sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act). These require special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. Both parties indicate that listed building consent has been approved for the works relating to the change of use (Ref.5/2016/2753 and 5/2018/2741) and that the Council has discharged the condition on those consents relating to the flooring works. They further advise that the plans and specification for the flooring works approved under the listed building consents are essentially the same as those now submitted under this appeal.
5. I saw during my visit that works to convert the upper floor of the building to a flat appeared to be substantially complete, although it did not appear that it was being occupied as such. The ground floor was in use as an estate agent and was open at the time of my visit.

Main Issue

6. The main issue is whether the submitted details in respect of noise and vibration insulation are sufficient to enable the condition to be discharged, having regard to the reason for imposing it.

Reasons

7. The Council comments that whilst they have approved the flooring details under the listed building consent, this decision was determined from a heritage perspective. They consider that they have insufficient information to be assured that those same details would adequately mitigate noise and vibration transmission between the commercial use and the proposed flat.
8. The details approved under the listed building consent, and those now under dispute in relation to this appeal, comprise the installation of a timber, acoustic underlay 6mm thick. It appears to me that this scheme was agreed following the Council refusing a previous specification (condition discharge Ref.5/2019/1895 of the listed building consent) which included installing sound insulation beneath the floor boards. This was refused as the Council was concerned with a potential loss of historic floorboards and additional weight bearing down on the plaster ceiling below. In the light of these concerns, the proposed installation of the sound insulation beneath the floor boards was omitted. The appellant points to a letter submitted to the Council (dated 12 October 2019) which suggest that the approved scheme with the above-board acoustic matting followed discussions with the Council's Planning Officer and Conservation Officer.
9. I recognise that matters relating to a listed building consent focus on a building's special interest and significance. However, it appears to me that the appellant should have had a reasonable expectation that those discussions with the Planning Officer and Conservation Officer and the approval of the floor specification for the listed building consent, would also take account of the suitability of the works with regard to noise and vibration. This is particularly as I see little evidence that any other consultees such as environmental health or noise specialist have made comments. In this regard, there is little to suggest that the appellant was told at the time that these measures would not be acceptable in relation to discharging the relevant condition on the planning permission. This

would have made the approval of the floor details for the listed building consent discharge rather meaningless. These factors, therefore, fall strongly in favour of the appellants.

10. Whilst I note that parts of Document E of the Building Regulations do not appear to be relevant to a partial change of use of a building to residential, it is still reasonable to ensure that the living conditions of future occupants are considered. However, this also needs to be balanced against any likely impact on the special interest and significance of a listed building. In this regard, I note that parts of Document E also recognise that for some buildings undergoing a material change of use it may not be practical to improve sound insulation to the standards set out in the document. It further states that the aim should be to improve sound insulation to the extent that is practically possible and always provided that the work does not prejudice the character of the building.
11. The list description for the building, (Ref.1347225 listed as Icknield House Antiques) refers, amongst other things, to the building being a house and shop dating from the 16th century and comprising a timber frame with a first floor canted oriel window, of three bays, and evidence of jetties. Based on the evidence before me, including the list description, I consider that the special interest/significance of the building mainly derives from its considerable age, form, fabric, and architectural features. In particular, the surviving timber framing which appears to extend throughout much of the building contributes to that significance. Based on this assessment, it would be reasonable to assume that improving sound insulation may need to be moderated to take account of preserving the building and any features of architectural or historic interest that it possesses. I therefore understand why the Council acted with caution in relation to approving the flooring details under the listed building consent.
12. As works have been substantially carried out to convert the building to a flat, new floor coverings had been laid and it was not possible for me to view or assess the existing floor structure or view the acoustic underlay. Nor is there much detail before me relating to the technical specification of that underlay. I did, however, walk around the flat and the office below to experience for myself noise levels and to consider the floor structure. As I walked around the first floor premises, I heard some outside traffic noise but was not aware of any noise transmitting from below, despite the office being occupied by several people. The floor also felt reasonably solid. I also saw in the office below that the underside of the floor had boarding set between the exposed joists. Although this was only one snapshot in time, and that uses for the ground floor unit could change, I had no reason to have concerns regarding undue levels of noise or vibration transmission.
13. Therefore, drawing this all together, the Council has discharged the floor condition in relation to the listed building consent, and has resisted a scheme for more invasive sound mitigation works which would require a further listed building consent. I also recognise that even though the Building Regulations do not directly apply to this conversion, the listed status of the building and its significance must be factored in to the appropriateness of upgrading the building fabric. Therefore, having visited the building and in the absence of any compelling evidence to the contrary, it appears to me that the measures undertaken, as specified in this appeal, adequately meet the requirements of the condition, and would not result in a noise nuisance affecting future occupants.

14. I therefore conclude that the submitted details in respect of noise and vibration insulation are sufficient to enable the condition to be discharged, having regard to the reason for imposing it. I therefore find no conflict with the Framework.

Conclusion

15. The submitted details are sufficient to discharge condition 5 of planning permission Ref. 5/2016/2752. Accordingly, the appeal is allowed.

G Bayliss

INSPECTOR