
Appeal Decision

Site visit made on 23 January 2025

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 February 2025

Appeal Ref: APP/X1165/W/24/3348552

Pia's, 33 Fleet Street, Torquay TQ2 5DJ

- 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 Graeme Cresswell and Mr Paul Wilson against the decision of Torbay Council.
 - The application Ref P/2023/1095, dated 20 December 2023, was refused by notice dated 29 April 2024.
 - The development proposed is change of use of retail's upper floors storage to 4 No. residential units.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of retail's upper floors storage to 4 No. residential units at Pia's, 33 Fleet Street, Torquay TQ2 5DJ in accordance with the terms of application P/2023/1095 dated 20 December 2023, subject to the following 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 following approved plans: 2334-03; 2334-04; 2334-05; 2334-06; 2334-07-A; 2334-08; 2334-09; 2334-LP; and 2334 FRA.
 - 3 - Prior to the installation of all new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:
 - Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
 - Reveal sections, drawn to a scale of 1:1-1:10
 - Sill sections, drawn to a scale of 1:1-1:10The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.
- 4 - Notwithstanding the provisions of Class L of Part 3 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any order revoking or re-enacting that Order with or without modification), the residential use for any of the four flats hereby granted shall not be changed to a House in Multiple Occupation, unless permission under the provisions of the Town and Country Planning

Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Application for costs

2. An application for costs was made by Mr Graeme Cresswell and Mr Paul Wilson against Torbay Council. This application is the subject of a separate Decision.

Preliminary Matters

3. A revised National Planning Policy Framework (the Framework) was published during the consideration of this appeal on 12 December 2024. The references in my decision to the paragraphs in the Framework relate to this new document.
4. The appellant's appeal submission was accompanied by revised plans, which were submitted to the Council on 29 April 2024. However, the Council did not accept them, and they therefore did not form part of the Council's consideration of the appeal application. The revisions sought to address the Council's concerns in relation to daylight and ceiling heights in flats 1 and 2. Whilst the change could be considered to be relatively minor, none of the plans have been subject to any consultation. Therefore, for clarity and the avoidance of doubt, I have determined the appeal on the plans, as were before the Council when the planning application was determined

Main issues

5. The main issues in this appeal are:
 - Whether the proposed development, in particular flats 1 and 2 provide adequate living space and acceptable levels of daylighting for future occupants; and
 - Whether the proposed development contributes to the creation of sustainable communities.

Reasons

Living conditions

6. The proposed development comprises the change of use of the upper floors of the appeal building to four flats, all accessed from the existing door on Rock Road. The majority of the works are internal, although there are some external works including minor amendments to the rear and the re-decoration of the front of the building.
7. There is disagreement between the parties over the amount of internal floorspace that would be provided in flats 1 and 2 and whether they would provide sufficient internal space to meet the Nationally Defined Space Standards (NDSS). There is also disagreement, due to the inclusion of mezzanines in flats 1 and 2, as to whether these units would be provided across single or two floors, along with the consequential effect this would have upon the required floor space to meet the NDSS.
8. The internal layout of the building is somewhat contrived, which is due to its existing configuration, past alterations and the way the building responds to the topography of the area. As a consequence, I accept that a conventional

conversion with each flat being provided on a distinct floor is not easily achievable.

9. Flats 1 and 2 would occupy the ground and first floor of the building. Both would be single bedroom flats, however due to the constraints I have identified, the bedrooms would be provided on mezzanine levels to maximise the use of the space and to take advantage of the ceiling heights that exist, particularly at first floor level. This arrangement would ultimately result in the bedroom areas in flats 1 and 2 having lower ceiling heights. Furthermore, the presence of the mezzanines would also restrict the amount of daylight that would enter the furthest parts of these flats, in particular from the windows at the front.
10. Whilst the mezzanine would create an additional level within each flat, this does not automatically mean that the flat becomes a two-storey flat. The mezzanine would be an integral part of the flat and would be open to the space below. The bedroom area would not be provided as individual rooms, but rather as a dedicated space for a bed. Therefore, in my view, it is more about making the most of the space, rather than the provision of an additional storey. In that sense, I find that the NDSS for a 1 bedroom-1 person provides the best benchmark against which to assess the quality of the space provided.
11. As I have already identified, there is disagreement between the parties on the overall calculation of the floorspace. In any event, failure to meet the technical requirements does not necessarily mean that living accommodation would be unacceptable or sub-standard. Both flats 1 and 2 would benefit from a kitchen/lounge area, utility, cupboard, and separate bathroom, along with the bedroom on the mezzanine level. This would provide adequate facilities for a likely single occupier with the proposed plans demonstrating that adequate space would be provided to meet basic furniture needs and provide suitable circulation space. In terms of the mezzanine areas, whilst the ceiling heights may be lower than other parts of the development, I do not consider them to be so inadequate as to justify the withholding of planning permission for this reason alone. I am also satisfied that sufficient design work has been completed by the appellant to justify them.
12. From my site visit, I observed that due to the internal arrangements it is likely that the amount of daylight that would penetrate the kitchen areas and the entrance lobbies, in particular of flats 1 and 2, would be restricted. For the same reasons the studies for flats 3 and 4 would also be similarly restricted, although they would both benefit from new windows. In relation to the existing windows, I note that a number are currently covered or are obscured, and these would be removed. I also note the appellant's assessment which concludes that the spaces that would be used for living rooms and kitchens comply with the Building Research Establishment guidelines for daylight and sunlight.
13. Therefore, on the basis of the evidence, whilst I consider that the level of daylight may be restricted in certain parts of the proposed flats, I find that, overall, I do not consider this to be of such a degree as to result in poor living standards for future occupants.
14. For the above reasons, I therefore conclude that the proposed development would provide adequate living standards to meet the needs of future occupants

and, in this respect, would accord with Policies H1 and DE3 of the Torbay Local Plan (TLP) and the Framework.

Sustainable communities

15. Policy SS11 of the TLP identifies that development should make a contribution to improving the sustainability of existing and new communities within Torbay, along with closing the gap between the most and least disadvantaged neighbourhoods and creating cohesive communities where people want to live and work.
16. The proposed development is unlikely to appeal to families or single parents, due to the size of the units, access constraints, along with the lack of external space. That said, given its position in a highly accessible location within the town centre, with good access to a wide range of services and facilities, I consider it would be attractive to single residents or young couples.
17. I note the Council's concern in relation to the potential for the flats to be occupied by residents of a transient nature, and their view that the proposal does not provide permanent homes for local people or meet the needs of certain sections of the population, further exacerbating the gap between the most and least disadvantaged communities. I however disagree.
18. Whilst I find that the proposed development would not necessarily deliver the type of homes that would appeal to everyone, they would, nonetheless, meet an identified need for new homes, in a sustainable location. Furthermore, the proposed development would bring back into active use the upper floors of the appeal site, which, along with the proposed improvements to the external appearance of the building, would be of benefit to this part of the town centre and preserve the character and appearance of the Torquay Harbour Conservation Area. Moreover, the introduction of residential development into the town centre, would bring associated benefits, such as increased activity and additional spending into the town centre, that would also benefit the Community Investment Area. I find that these benefits more than outweigh the limitations that the development would have in terms of the suitability of the accommodation for all sections of the population.
19. For the above reason, I therefore find that the proposed development would contribute towards the creation of sustainable communities and, in this respect, accords with policy SS11 of the TLP and the Framework.

Other Matters

20. It is common ground between the parties that the Council are currently unable to demonstrate a 5 year supply of housing land. However, as I have found that the proposed development would accord with the development plan, I do not need to consider the appeal against the balance as set out in the Framework.

Conditions

21. The suggested conditions have been considered in light of the advice contained within the Framework and the National Planning Practice Guidance. I have made a number of minor changes to the format of the conditions to improve their legibility and precision.

22. A standard implementation condition, along with a requirement to implement the scheme in accordance with the approved plans is necessary. To ensure the satisfactory external appearance, a condition requiring the submission of details of new windows and doors is necessary. To ensure the retention of the flats it is appropriate to remove permitted development rights to prohibit a change of use to a House in Multiple Occupation.

Conclusion

23. I conclude, for the reasons outlined above, that the appeal should be allowed subject to the identified conditions.

Adrian Hunter

INSPECTOR