
Appeal Decision

Site visit made on 24 November 2015

by Simon Warder MA BSc(Hons) DipUD(Dist) MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 December 2015

Appeal Ref: APP/T1410/W/15/3133001

The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH

- 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 Julian Konti (@Architect) against the decision of Eastbourne Borough Council.
 - The application Ref PC/150092, dated 27 January 2015, was refused by notice dated 5 August 2015.
 - The development proposed is the conversion of first floor accommodation to form 1 one-bedroom flat and 2 two-bedroom flats with access from the rear.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of first floor accommodation to form 1 one-bedroom flat and 2 two-bedroom flats with access from the rear at The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH in accordance with the terms of the application, Ref PC/150092, dated 27 January 2015, subject to the conditions set out in the attached schedule.

Application for Costs

2. An application for costs was made by Mr Julian Konti (@Architect) against Eastbourne Borough Council. This application is the subject of a separate Decision.

Preliminary Matter

3. During the course of the determination of the application the applicant agreed to amend the proposal to reduce the number of proposed flats from four to three. The description of development used above is, therefore, taken from the Council's decision notice, rather than the application form, since this more accurately reflects the scheme on which the Council's decision was based.

Main Issue

4. The main issue is whether the proposal would provide satisfactory living conditions for future occupiers of the proposed flats with particular regard to noise.

Reasons

5. The appeal building is a two storey former public house. The ground floor has been converted to a food store. Plant associated with that use has been
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installed on a flat roof area at the rear of the building. The appeal proposal is to convert the existing first floor accommodation into three flats. Existing window openings would be re-used and each of the flats would have windows facing the front and rear of the building. The rear-facing openings include windows serving one bedroom in each of the flats and the living room in flat 3. These windows would be in fairly close proximity to the plant associated with the food store.

6. In order to overcome the Council's concerns regarding the effect of the noise from this plant on the living conditions of future occupiers, the appellant submitted a Noise Impact Assessment (NIA)¹. The Assessment found that the installation of standard, thermally sealed double glazing with appropriate frames in the affected windows would reduce noise levels in the flats sufficiently to accord with the advice in the National Planning Policy Framework (the Framework), the Noise Policy Statement for England and currently available guidelines². The affected rooms would also be fitted with trickle ventilation. These measures could be secured by condition.
7. The Council has produced no substantive evidence to dispute the findings of the NIA. However, it remains concerned that the proposed arrangement would restrict future occupiers from opening the affected windows at night when noise from the plant would be present but traffic noise (the other significant source of noise in the area) would be at a minimum.
8. The NIA suggested that the windows could be opened as a matter of personal preference. I noted on the site visit that the noise from the plant takes the form of a steady hum. As such, it is likely to be less disruptive than intermittent noise events, even during the quieter night-time period. When inside the building, it was also noticeable that the noise level reduced markedly a short distance from the window. Therefore, I am not persuaded that the effect of the noise would be sufficiently intrusive to prevent future occupiers from opening an affected window if they so wish.
9. Consequently, I find that, with the mitigation measures suggested by the appellant in place, the proposal would provide satisfactory living conditions for future occupiers of the proposed flats with regard to noise. As such, it would accord with policy D1 of the Core Strategy Local Plan insofar as it requires new development to take into account the principles of sustainability and deliver environmental well-being. It would also comply with policy HO20 of the Eastbourne Borough Local Plan to the extent that it requires proposals to respect residential amenity including with regard to noise.
10. The Council considers that the layout of the proposed flats should be amended to avoid the need for the rear-facing windows to serve habitable rooms and that the roof top plant should be enclosed. However, since I have found that the proposal would be acceptable using the mitigation measures suggested by the appellant, it is not necessary to consider these amendments any further.

Other Matters

11. Concern has been expressed locally regarding the parking demand generated by the proposed flats. However, no substantive evidence of parking problems

¹ Clarke Saunders Acoustics 16 June 2015

² World Health Organisation Guidelines for Community Noise 1999 and British Standard 8233:2014 Guidance on sound insulation and noise reduction for buildings

in the area has been submitted. Based on my observations on the site visit, I see no reason to disagree with the East Sussex County Council Highways consultation response which found that the relatively small level of additional parking generated by the proposal could be accommodated on the surrounding streets.

Conditions

12. The Council has suggested a list of five conditions. With amendments for clarity, I find that they meet the tests set out in the Planning Practice Guidance. A condition specifying the approved plans is necessary for the avoidance of doubt and in the interests of proper planning. A condition limiting the use of the flat roof adjacent to the proposed flats and the staircase to access only is necessary to safeguard the living conditions of neighbouring occupiers. A condition requiring the provision of cycling parking areas is reasonable in the interests of sustainable travel objectives. I have already dealt with the need for a condition to secure noise mitigation measures.

Conclusion

13. For the reasons set out above, the appeal should be allowed.

Simon Warder

INSPECTOR

Schedule of conditions attached to Appeal Ref: APP/T1410/W/15/3133001 The Drive, 153 Victoria Drive, Eastbourne, East Sussex BN20 8NH

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved drawings: 12-0106/PL74; 12-0106/PL73 and 12-0106/PL71 Rev B.
- 3) Access to the flat roof adjacent to the principal accesses to the units hereby approved shall be for maintenance or emergency purposes only and the flat roof shall not be used as a roof garden, terrace, patio or similar amenity area. Nor shall this access and ancillary staircase be used as a balcony, patio, roof garden or similar amenity area at any time.
- 4) No dwelling shall be occupied until cycle parking areas have been provided in accordance with details which have first been submitted to and approved in writing by the Planning Authority. The approved areas shall thereafter be retained for that use and shall not be used other than for the parking of cycles.
- 5) The development hereby permitted shall not be occupied until the recommendations contained within the Noise Impact Assessment Report ref AS8378.150616 NIA, dated 16th June 2015, have been implemented.