



Appeal Decision

Site visit made on 11 August 2015

by L Gibbons BA (Hons) MRTPI

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

Decision date: 3 September 2015

Appeal Ref: APP/Q1445/W/15/3009190

Toby Inn, Cowley Drive, Brighton BN2 6WD

- 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 Tim Martin (Tim Martin Interiors Limited) against the decision of Brighton & Hove City Council.
 - The application Ref BH2014/03230, dated 24 September, was refused by notice dated 22 January 2015.
 - The development proposed is a change of use from A4 drinking establishment to sui generis temporary accommodation together with associated conversion works.
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Decision

1. The appeal is allowed and planning permission is granted a change of use from A4 drinking establishment to sui generis temporary accommodation together with associated conversion works at Toby Inn, Cowley Drive, Brighton BN2 6WD in accordance with the terms of the application, Ref BH2014/03230 dated 24 September, subject to the conditions set out in the attached schedule.

Application for costs

2. An application for costs was made by Mr Tim Martin (Tim Martin Interiors Limited) against Brighton & Hove City Council. This application will be the subject of a separate Decision.

Procedural Matter

3. The Council's decision notice refers to the Brighton and Hove City Plan (CP) submission document and in particular Policy CP1. This sets out the requirements for guiding housing delivery within the City and criteria against which residential development will be assessed. I understand that this document has recently been the subject of consultation for further modifications, which included changes to Policy CP1. The weight I attach to the policy must be tempered accordingly. I have therefore dealt with the appeal primarily on the basis of the policies contained within the Brighton and Hove Local Plan (LP) 2005.

Main Issue

4. Whether the proposed development is acceptable in relation to the loss of a community facility, having regard to the development plan and the National Planning Policy Framework and other material considerations.

Reasons

5. The appeal site is located within a mainly residential area. The existing building has previously been a public house and more recently a venue for local events. The appeal site has a planning history which includes previously refused applications in relation to changes of use to the building including a combined public house and hotel. The scheme before me as a conversion of the building to a hostel to provide 18 rooms, seeks to overcome the concerns of the Council in relation to previous schemes.
6. Saved Policy HO20 of the LP refers to proposals involving the loss of community facilities. Although public houses are not specifically listed in the policy, they are accepted by the Council as being community facilities. The policy sets out a number of exceptions where the loss of a community facility may be justified. The Council refer to criterion (d) as being applicable in this instance. This refers to proposals demonstrating that the site is not needed, not only for its existing use but also for other types of community use.
7. The public house ceased to operate in 2006. The proposal is accompanied by a marketing report and a viability assessment which indicate that it would not be viable to continue in that use. I also understand that there was a history of anti-social behaviour associated with the former public house. The use of the building for community and other functions has not been widely taken up.
8. The appellant has submitted evidence which indicates that the conversion to other community uses such as a children's nursery would also be unviable and the Council accepts this is the case. The availability of other community buildings within the area, including a small church opposite which advertises local classes is also a significant. On this basis, I agree with the Council that the public house and other uses community uses are not needed and the loss of the public house in this case is acceptable, meeting criterion (d) of Policy HO20.
9. Where an exception has been demonstrated Policy HO20 then attaches priority to replacement schemes being either residential or mixed used. The explanatory text of Policy HO20 at paragraph 4.88 sets out that this priority is consistent with the Plan's approach to securing new residential accommodation. There is no definition of residential development in Policy HO20 and the parties do not agree whether the proposal would be residential development. The Council indicates it would expect residential development to comprise accommodation which is capable of being a main residence. Taking account of the size of rooms, proposed services and facilities, staffing requirements, and payment and booking terms, I accept the proposal would not be capable of being the main residence of people staying or provide permanent accommodation. There would therefore be conflict with Policy HO20 in this respect.
10. I note that the Council refer to there being no evidence of local demand for the proposed use. However, in support of the application the appellant has provided information that indicates that there is a demand for this type of property across London and the South East in general and I consider that the proposal would add to the wider choice of type and tenure of accommodation on offer within the area.

11. The Framework identifies three dimensions to sustainable development – economic, social and environmental. In terms of the economic dimension, the proposal would generate a small number of employment opportunities relating to the management and upkeep of the facilities. There would be temporary jobs provided during the construction period. The proposal would also bring land into use which is currently underused.
12. In respect of the social dimension, I have had regard to the concerns expressed by local residents, including a number who have signed a petition, indicating that the local infrastructure is not sufficient to support the proposed use. Nevertheless, I consider the site is not entirely isolated being adjacent to a small parade of shops and services which include a convenience store, pharmacy and post office that the occupiers of the scheme would be able to make use of. I also note that a range of services and facilities are available within the wider area. The proposal would also not undermine the provisions of the Framework, which at paragraph 70 refers to the need to guard against the unnecessary loss of valued facilities.
13. In respect of the environmental role of sustainability I accept that the location of the appeal site is not close to the major centres of employment within the City. However, there are two bus stops at the parade and other bus stops close by with fairly regular daily services to the city. This would offer a reasonable choice of travel to the occupiers of the scheme as an alternative to the car. The Council does not object to the detailed design of the proposal. The above factors weigh heavily in favour of the appeal proposal.
14. The Council does accept that new residential buildings on the site are not likely to be viable. In addition, the appellant indicates that the conversion to permanent residential accommodation would also not be viable. The Council refer to the lack of evidence to demonstrate this although I am not aware of the basis for a requirement to do so. Although I note that information from a local land and development agent refers to conversion being the most suitable option it is not clear that this relates specifically to a conversion to permanent residential accommodation. I understand the Council is unable to demonstrate a five year supply of housing land as required by the Framework and I acknowledge that there is a considerable need to provide new housing within the city as set out in Policy CP1. I accept that smaller sites such as the appeal site can make a contribution to the housing supply, however against this background; I am not persuaded that the proposal would have an unacceptable impact on the supply of housing land.
15. There are several material considerations which support the proposed development, despite some degree of conflict with a strict interpretation of Policy HO20. I also find that the proposal would not be contrary to any advice in the Framework. For the reasons given above, I conclude that the proposed development is acceptable in relation to the loss of the community facility and I shall allow the appeal.

Other matters

16. The Council indicate that the proposal would be acceptable in terms of parking and access. However, the Council refers to the need for an obligation under Section 106 of the Planning Act to secure transport contributions. No planning obligation is before me. Policy QD28 of the LP refers to planning obligations being sought including for public transport infrastructure. I have not been

provided with any evidence to demonstrate how the amount requested has been calculated, although I note the reference to the Council Interim Guidance on Developer Contributions. I note it would be intended to spend on local schemes in the area including on Cowley Drive. However, it is not clear whether all the money would be spent in this way. Accordingly, I cannot be certain that the contribution sought would be necessary to make the development acceptable or that it would be fairly and reasonably related in scale and kind.

17. Consequently, and notwithstanding the aims of development plan policy, I am unable to conclude that a planning obligation seeking to provide these contributions would comply with Regulation 122 of the Community Infrastructure Levy Regulations 2010. In these circumstances, the absence of a planning obligation does not weigh against the development.
18. The Council does not object to the proposed development in terms of its effect on the living conditions of the adjoining occupiers on Stanstead Crescent in respect of privacy and outlook. Having given this matter careful consideration based on the evidence before me and taking account of the positioning of windows on the elevation which would face towards the rear gardens of these houses, I see no reason to disagree with this matter.
19. Residents have raised concerns relation to the potential for noise and disturbance and anti-social behaviour from occupiers of the proposed development. However, I have not been provided with evidence to demonstrate that this type of scheme would cause harm in this respect and can therefore give this little weight.

Conclusion and conditions

20. I have considered the conditions in the light of the tests set out in paragraph 206 of the Framework and the Planning Practice Guidance. For the avoidance of doubt and in the interests of proper planning, a condition is necessary specifying the approved plans.
21. The Council have recommended conditions in respect of details of cycle parking and disabled parking provision and I agree that these are necessary. Based on the evidence before me, I agree that a condition relating to a Travel Plan would be necessary. However, I have amended the condition to remove references to consultation, targets, monitoring framework and annual staff survey taking into account the fairly small scale nature of the proposed development and the likely number of employees.
22. A condition specifying the use of the building as temporary hostel accommodation is also necessary to ensure the building is not used for permanent accommodation and to protect the amenity of adjoining occupiers.
23. The Council have recommended a condition relating to details of sustainability measures including water reduction and energy as well as surface water run off. In relation to water reduction and energy measures the Government has introduced a new system of Housing Standards. Policy SU2 of the LP does not refer to the Code for Sustainable Homes and therefore any transitional arrangements in relation to the new system would not apply in this case. In relation to surface water run off there is no evidence that this would be needed as a result of the development. I have therefore not attached this condition.

24. For the above reasons and having regard to all other matters raised, I conclude that subject to the conditions set out in the attached schedule, the appeal should be allowed.

L Gibbons

INSPECTOR

CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: GSB.001; GSB.002; GSB.003; GSB.004; GSB.006; GSB.007; GSB.008 Rev F; GSB.009 Rev E; GSB.010 Rev F; GSB.012 Rev D; GSB.013 Rev D; GSB.014 Rev D; GSB.015 Rev E; GSB.016 Rev E; GSB.017 Rev G; GSB.020 Rev A; GSB.021; GSB.022 Rev C; GSB.141 Rev C; GSB.140 Rev C; Site Plan.
- 3) The development hereby permitted shall not be commenced until details of secure cycle parking facilities for the occupants and visitors to the development have been submitted to and approved in writing by the local planning authority. These proposals shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
- 4) Within 3 months of the development hereby approved, the Developer or owner shall submit to the local planning authority for approval in writing a detailed Travel Plan (a document which sets out a package of measures tailored to the needs of the site, which is aimed at residents, visitors, staff, deliveries and parking management) for the development. The Travel Plan shall include such commitments as are considered appropriate, and should include as a minimum the following initiatives and commitments:
 - (i) Promote and enable increased use of walking, cycling, public transport use, car sharing, and car clubs as an alternative to car use;
 - (ii) A commitment to reduce carbon emissions associated with business and commuter travel;
 - (iii) Increased awareness of and improve road safety and personal security;
 - (iv) Identify a nominated member of staff or post to act as Travel Plan Co-ordinator, and to become the individual contact for the local planning authority relating to the Travel Plan;
 - (v) Provide details of sustainable travel options to the site at the point of booking;
 - (vi) Include details of public transport, cycling and walking information to the site on the hostel's website;
 - (vii) Provision of public transport, cycle and walking maps for the local area in the hostel's lobby.
- 5) No development shall commence until details of disabled car parking provision for the occupants of and visitors to the development hereby permitted have been submitted to and approved in writing by the local planning authority. The approved scheme shall be fully implemented and made available for use prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.

- 6) The building hereby permitted shall only be used for temporary guest accommodation purposes in the manner of a hostel and for no other purpose.

