



Appeal Decision

Site visit made on 9 February 2016

by **Paul Griffiths BSc(Hons) BArch IHBC**

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

Decision date: 13 February 2016

Appeal Ref: APP/R3325/W/15/3132646 The Old Courthouse, Kingston, Yeovil BA20 2QL

- 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 Mrs Jo Fuller against the decision of South Somerset District Council.
 - The application Ref.15/01630/COU, dated 3 April 2015, was refused by notice dated 10 July 2015.
 - The development proposed is the change of use of a private dwelling (including Bed & Breakfast) to a hostel.
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Preliminary Matters

1. An application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Decision

2. The appeal is allowed and planning permission is granted for the change of use of a private dwelling (including Bed & Breakfast) to a hostel at The Old Courthouse, Kingston, Yeovil BA20 2QL in accordance with the terms of the application, Ref.15/01630/COU, dated 3 April 2015, subject to the following 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: 4: Location Plan and Block Plan; 1a and 1b: Ground Floor Existing and Proposed; 2a and 2b: First Floor Existing and Proposed; and 3a and 3b: Second Floor Existing and Proposed.
 - 3) The change of use shall not take place until a scheme giving details of the nature of the occupiers of the hostel, and any associated management system, has been submitted to, and approved in writing by, the local planning authority. The hostel shall thereafter be occupied in accordance with the approved scheme.

Main Issues

3. These are the effect of the proposal on (1) neighbouring land uses; and (2) the special architectural and historic interest of the listed building.
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Reasons

Issue 1

4. The development plan for the area includes the South Somerset Local Plan (2006-2028)¹. LP Policy EQ2 sets out that development proposals will be considered against, amongst other things, the creation of safe environments and the need to address crime prevention and community safety. Further, development proposals should protect residential amenity. To a large extent, that mirrors the approach of the National Planning Policy Framework² which says that we should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
5. Given the nature of some surrounding uses, questions have been raised about the type of occupation proposed for the hostel and the potential for that to create tension with existing uses. The appellant says the type of occupation is not known, for now at least. In that context, I can appreciate why the Council, and others, express concern.
6. Having said that, I believe there is some merit in the suggestions made by the appellant about the use of conditions to address those concerns. Those put forward are in my view, a little too narrowly drawn but I see no good reason why a condition could not be applied requiring a scheme to be submitted to the Council giving details of the nature of the occupation, and any management system, and for the hostel to be used in accordance with that scheme.
7. That way, if a type of occupation came forward that the Council was unhappy with, or it considered the management system proposed inadequate, it need not approve the scheme, and the change of use could not be implemented.
8. In that context, subject to such a condition, I see no reason why the proposal need have a harmful impact on neighbouring land uses and no divergence from LP Policy EQ2 or the Framework, in this regard.

Issue 2

9. The Old Courthouse was built, it seems, as a Town House and dates from around 1830. It is a Grade II listed building.
10. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990³ requires the decision-maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest it possesses.
11. LP Policy EQ3 seeks to conserve and where appropriate enhance heritage assets. Development proposals relating to the historic environment are expected to safeguard or where appropriate enhance the significance, character, setting and local distinctiveness of heritage assets. Again, that follows the approach of the Framework. Paragraph 132 is clear that when considering the impact of a proposed development of the significance of a designated heritage asset, great weight should be given to the asset's conservation.

¹ Referred to hereafter as LP

² Referred to hereafter as the Framework

³ Referred to hereafter as the Act

12. I see no good reason why, given the existing use of the building, the use proposed would have any harmful impact on its special interest, or significance. My site visit allowed me to confirm that no physical alterations to the historic parts of the building are proposed at this stage but it may be that the new use would require some works of that kind. However, any such works would need to be authorised through a grant of listed building consent. If suggested works come forward that are considered too invasive, or otherwise unsuitable (and I have no good reason from what I saw of the building to think they might), then such consent need not be forthcoming.
13. On that overall basis, the proposal should cause no harm to the special architectural and historic interest of the listed building and does not offend the requirements of the Act, LP Policy EQ3, or the Framework.

Conditions

14. I have considered the suggested conditions in the light of advice in the Framework and Planning Practice Guidance. A condition is required to deal with commencement, and to set out the approved plans.
15. As set out above, a condition is required to deal with the nature of the occupation of the hostel, and any management system. The Council has suggested a condition requiring the completion of the extension to the building approved in 2008. I do not regard that as a reasonable use of a condition on this particular proposal. There are other options open to the Council in this regard and in any event, it is clear that the proposal at issue envisages completion of the extension.

Conclusion

16. For the reasons given above I conclude that the appeal should be allowed.

Paul Griffiths

INSPECTOR



Costs Decision

Site visit made on 9 February 2016

by **Paul Griffiths BSc(Hons) BArch IHBC**

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

Decision date: 13 February 2016

Costs application in relation to Appeal Ref: APP/R3325/W/15/3132646 The Old Courthouse, Kingston, Yeovil BA20 2QL

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6, and the Local Government Act 1972, section 250(5).
 - The application is made by Mrs Jo Fuller for a full, or failing that a partial, award of costs against South Somerset District Council.
 - The appeal was against the refusal of planning permission for the change of use of a private dwelling (including Bed & Breakfast) to a hostel.
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Decision

1. The application for an award of costs is refused.

Reasons

2. As set out in the Planning Practice Guidance¹, costs may be awarded where a party has behaved unreasonably and the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process. Amongst a range of examples of unreasonable behaviour by local planning authorities cited in the PPG as having the potential to give rise to an award of costs is refusing planning permission on a planning ground capable of being dealt with by conditions.
3. There are two angles to the appellant's application for an award of costs. In the first instance, it is suggested that the Council was wrong to refuse planning permission when it could have imposed a condition limiting occupation to a particular category of person.
4. In allowing the parallel appeal, I have accepted that the necessary control could be exerted through a condition. The Council adopted a different threshold and required details of the nature of the occupation before it would grant planning permission. What can be dealt with by condition is to a large extent a matter of judgement. In this instance, my threshold for what is acceptable has proved to be a lower one than the Council's. However, I do not believe that in applying its judgement, the Council did so unreasonably.
5. In terms of the impact on the listed building, it is clear from having inspected the interior of the building that the submitted plans are accurate and show no physical alterations to the historic part of the building as part of the proposed change of use. I have drawn comfort that any works subsequently required to facilitate the new use would require a grant of listed building consent.

¹ Referred to hereafter as PPG

6. Again though, I do not consider that the Council acted unreasonably in resisting the proposal on listed building grounds. Without the benefit of an inspection of the interior of the building, which was denied to them, I do not see how the Council could assess whether the plans were accurate, and what the likely impact of the change of use on the listed building might be. In those circumstances, I do not see that the Council had any real alternative but to refuse planning permission.
7. The reference to the similar project at Richmond Villa where the Council was able to draw conclusions without an internal inspection takes the argument nowhere because it did not involve a listed building.
8. On that overall basis, I find that the Council has not behaved unreasonably and an award of costs is not justified.

Paul Griffiths

INSPECTOR