



Appeal Decision

Site visit made on 1 February 2022

by **L Douglas BSc (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 8 March 2022

Appeal Ref: APP/V2255/W/21/3275887

Halfway House, Halfway Road, Minster-On-Sea ME12 3AU

- 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 Elvin Akis, ADS Properties against the decision of Swale Borough Council.
 - The application Ref 19/504670/FULL, dated 28 August 2019, was refused by notice dated 14 April 2021.
 - The development proposed is 'first floor side extension fronting Halfway Road, first floor rear extension and associated change of use of residential accommodation (C3 use class) to wine bar (A4 use class) at first floor level'.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal was amended during the course of the application being considered by the Council. I have therefore taken the description of the development proposed for the banner heading above from the Council's decision notice, which the appellant has referred to within the appeal form.

Main Issues

3. The main issues are the effect of the proposed development on residential accommodation, and the character and appearance of the area.

Reasons

Residential Accommodation

4. The appeal site is occupied by a large part single and part two-storey building on a prominent corner plot, comprising a bar and restaurant at ground floor level and an independent residential flat at first floor level. It is proposed to extend the building at first floor level to create a wine bar in place of the residential flat, which would be associated with the restaurant.
5. Neither of the main parties have suggested that the appeal site lies within a primary shopping frontage or a Town Centre, as referred to by Policies DM1 and DM2 of the Swale Borough Local Plan (2017) (LP). Policy DM1 states that outside of such areas, non-retail uses will be permitted where they do not result in the loss of existing residential accommodation, amongst other things. In this case, where the proposal relates to an existing food and drink service use outside of a Town Centre, Policy DM2 states planning permission will be granted for main town centre uses where, amongst other things, they would

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not materially prejudice the provision of other land uses, particularly the supply of housing.

6. The flat is located above a bar and restaurant which operates to 0030, and is without dedicated outside space. I accept that will result in qualified living conditions. The appellant also states that the flat 'is not utilised for residential purposes associated to the existing business and is unlikely to be used as a private residential flat for the foreseeable future.' However, set against the context above, its undisputed lawful use is as residential accommodation. The flat is relatively spacious comprising four rooms in addition to a bathroom, which moderates the extent to which the absence of dedicated outside space would be perceived as substandard by occupants.
7. It is often the case that residential accommodation is located above bars and restaurants. It is not uncommon for individuals to reside there in connection with the operation of the business below, or indeed for other individuals to occupy such premises who accept some noise and disturbance as the consequence of living in a location close to commercial uses. The existence of a bar or restaurant beneath residential accommodation, following the appellant's logic, might be said to render all such arrangements unacceptable, which is evidently not the case. Moreover, there is no justification before me as to the reason why the flat has not been recently in use as accommodation, nor why the appellant contends that would not be the case in the future.
8. I note that the Council's lack of a five-year housing land supply would suggest there is an ongoing need to protect existing residential accommodation in the Borough. The proposal would result in the loss of existing residential accommodation and would therefore conflict with Policies DM1 and DM2 of the LP for the reasons I have given.

Character and Appearance

9. The appeal building would be extended at first floor level along its front elevation facing onto Halfway Road, and also to the rear. There would be partial views of the proposed rear extension from outside the appeal site, and the increase in the overall bulk of the appeal building would be noticeable from Queensborough Road. The proposed first floor extension along Halfway Road would follow the height and form of the existing first floor of the appeal building, creating a substantial building.
10. Although the appeal building would be larger than neighbouring buildings, the size of its plot would be sufficiently spacious to comfortably accommodate the proposed extensions, which would be subservient to the existing building on account of its existing size and expansive layout. The prominent position of the appeal site, forming one corner of a crossroads lined with commercial properties, would ensure the proposal would not appear incongruous in its mixed surroundings. The scale and bulk of the proposal would not be significantly greater than neighbouring residential terraces and other commercial buildings and would not therefore appear harmful or unsympathetic to the prevailing character of the area.
11. The proposed development would not therefore harm the character or appearance of the area and would accord with Policies CP4 and DM14 of the LP. These require, amongst other things, all development to be of high quality design that is sympathetic and appropriate to its surroundings.

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Other Matters

12. The appellant has referred to the development of 153 dwellings in a nearby location and has claimed that the loss of the existing flat would not therefore unacceptably harm housing provision in the local area. In the context of ongoing large housing developments, the existing flat makes only a small contribution to housing supply. However, the loss of a single flat would still harm housing provision in an area where the Council is unable to demonstrate a five year housing land supply and where the development plan seeks to protect existing residential uses.
13. It has also been suggested that the proposal would contribute towards the vitality and viability of the area, and I accept it would improve and increase the leisure facilities of the existing business. However, no evidence has been presented to demonstrate the existing vitality and viability of the area is under threat or would benefit substantially from the proposal. The benefits of the proposal would not therefore outweigh the harm I have identified.

Conclusion

14. The proposal would not harm the character or appearance of the area, but it would reduce residential accommodation in an area where there is a lack of housing land supply. The proposal would therefore conflict with the development plan taken as a whole, and there are no material considerations which indicate my decision should be made other than in accordance with the development plan. Therefore, for the reasons given, I conclude that the appeal should not succeed.

L Douglas

INSPECTOR