The Planning Inspectorate

Appeal Decision

Site visit made on 25 April 2024

by N Perrins BSc (Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th May 2024

Appeal Ref: APP/M3835/W/23/3329368
Ground Floor Flat, 31 Church Walk, Worthing, West Sussex BN11 2LT

- 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 Mark Pilkington against the decision of Worthing Borough Council.
- The application Ref: AWDM/0884/23.
- The development proposed is for the change of use of dwelling to Airbnb for part of the year.

Decision

1. The appeal is dismissed.

Preliminary Matters

2. A revised National Planning Policy Framework (the Framework) was published in December 2023, but there are no material changes relevant to the main issue for this appeal.

3. The description of development differs between that given on the planning application form and the Council's decision notice. I have used in the header above, the wording from the Council's decision notice to more accurately describe the proposed development.

4. The appellant's statement sets out that as the property would remain the appellant's permanent home, the proposal to use the property for 30-50 days a year as an Airbnb would not be a material change of use. This is a different position to what was originally applied for, with the application made seeking planning permission for the proposed change of use. It would be a matter for the appellant to consider separately, rather than for this appeal, to what extent the property could be used for Airbnb use without the need for planning permission. Accordingly, I have assessed the appeal on the basis of a proposed material change of use to an Airbnb use for part of the year in accordance with what was originally applied for.

Main Issue

5. The main issue is whether the change of use of the property to an Airbnb use for part of the year would result in the unacceptable loss of a residential dwelling.

Reasons

6. The appeal site is a ground floor flat located within a semi-detached property. The appeal property has two bedrooms, kitchen, bathroom, living area and a rear garden.

7. The appeal proposal comprises a change of use from a dwelling to one that would also allow Airbnb use for part of the year. From the information before me, I understand that the Airbnb use would be for short-term lets to provide tourist and visitor accommodation.

8. Policy DM1 of the Worthing Borough Local Plan 2020-2036 (the Local Plan) sets out that the Council will resist any net loss of existing residential accommodation (Use Class C3) unless one or more of five exceptions apply.

9. The five exceptions require development to demonstrate that (i) the accommodation cannot be renovated to achieve satisfactory housing standards, (ii) the proposal would result in the net gain of affordable housing, (iii) the loss would enable residential units to be enlarged to meet residential space standards, (iv) the proposed change of use will provide a local community service / facility that meets an identified need, or (v) it can be demonstrated that the change of use is the only practicable way of preserving the special architectural or historic interest of a listed building or other building of heritage significance. No justification has been submitted to demonstrate compliance with any of the DM1 exceptions.

10. Moreover, whilst the Local Plan establishes a current housing requirement of 230 dwellings per annum, the Government's standard method for identifying housing needs equates to 885 dwellings per annum, which is significantly higher than what is currently planned for delivery. This demonstrates that there remains a significant housing need in the borough at the present time. In this context, it is clear that any proposals involving the net loss of housing need to be robustly justified against the policy requirements of DM1, which has not been provided in this case.

11. I note the appellant has stated that the property would only be let out for a small part of the year and that all utilities and services would remain in their name. Whilst that is the intention at this stage, it would be necessary before granting planning permission to ensure this could be controlled and limited to the 30-50 days that have been specified. I have, therefore, considered whether the proposal could be controlled by a condition similar to that set out in the Council's list of suggested conditions in the event of the appeal being allowed.

12. However, I am not satisfied from the evidence before me how such a condition would be enforceable, which raises concerns over whether the proposed use could be controlled. Without being assured that a condition would be enforceable, it would not accord with all of the six tests for planning conditions set out in Paragraph 56 of the Framework. Planning practice guidance[1] states that any proposed condition that fails to meet one of the six tests should not be used.

13. Without a satisfactory mechanism to control the proposed use, I agree with the Council's concerns that the proposal could result in the effective sterilisation of

[1] Planning Practice Guidance Reference: 005 Reference ID: 21a-005-20190723

the property as a dwelling, which is not a satisfactory position from which to consider granting planning permission in the context of the borough's housing need position. The potential loss of a permanent dwelling is, therefore, a significant issue that I apply significant weight.

14. For the foregoing reasons, the change of use of the property from residential to Airbnb use for part of the year has not been justified in accordance with the requirements of Policy DM1 of the Local Plan. Therefore, the appeal proposal is contrary to Policy DM1 of the Local Plan and no material considerations have been presented that would justify the identified conflict with development plan policy.

Other Matters

15. There has been an objection that has raised a series of other concerns such as the impact of the use on highway safety, noise disturbance and health and quality of life. Whilst I acknowledge these concerns, there is no information before me that would lead me to a different conclusion to the Council on these matters. Finding no material harm in respect of these other issues is, however, only a neutral factor in this appeal and does not outweigh the harm I have identified.

Planning Balance and Conclusion

16. As set out above, it has not been demonstrated that the exceptions contained in Policy DM1 of the Local Plan have been met. It is evident that there is an acute housing need in the city and proposals involving the net loss of residential accommodation such as this appeal need to be carefully considered and require robust justification to be acceptable. In this context, and taking all matters into consideration, I conclude that the adverse impacts of the development would significantly and demonstrably outweigh the benefits. The material considerations in this case do not indicate that the proposal should be determined other than in accordance with the development plan.

17. For the reasons given above I conclude that the appeal should be dismissed.

N Perrins

INSPECTOR