The Planning Inspectorate

Appeal Decision

Site visit made on 3 June 2019

by Paul T Hocking BA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 July 2019

Appeal Ref: APP/L1765/W/18/3210154
St Clements Partnership, Tanner Street, Winchester SO23 8AD

- 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 Lochstill LTD against the decision of Winchester City Council.
- The application Ref 17/03193/FUL, dated 10 May 2018, was refused by notice dated 30 July 2018.
- The development proposed is Change of Use from Class D1 to Class B1.

Decision

1. The appeal is allowed and planning permission is granted for Change of Use from Class D1 to Class B1 at St Clements Partnership, Tanner Street, Winchester SO23 8AD in accordance with the terms of the application, Ref 17/03193/FUL, dated 10 May 2018, subject to the following conditions:

   1) The development hereby permitted shall begin not later than 3 years from the date of this decision.

   2) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan & Site Plan 1745-P1; Existing Floor Plans 1745-P2; Proposed Floor Plans 1745-P3.

   3) The development hereby permitted shall be used for uses within Class B1(a) only and for no other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any Statutory Instrument revoking and re-enacting that Order with or without modification).

Main Issue

2. The main issue is the effect of the change of use on the provision of a local community facility.

Reasons

3. The site consists of a 3-storey flat roofed building together with a carpark. It is located within the Winchester Conservation Area and is surrounded by a mix of town centre uses. The proposal relates to the change of use of the site and building, which is largely occupied by the St. Clements Surgery, from Use Class D1, a doctor's surgery, to Use Class B1, business offices. No external alterations are proposed.

4. Planning permission[1] has been granted at nearby Upper Brook Street for a new primary care facility which is intended to replace the existing doctor's surgery. That site is owned by the Council and work has commenced on the construction of the new facility, which has been described as key element of the Council's capital programme. Whilst a commercial agreement has not yet been signed, there is clear evidence of a commitment on the part of the Council to deliver the facility as part of an agreed plan to provide improved local services, in an equally accessible location.

5. There is concern that in the absence of a confirmed alternative facility, given the current lack of a commercial agreement and completion of the new facility, there is a risk that the existing surgery could be lost. Commercial pressures could also push the practice out of this central area to make way for more profitable uses, given it is difficult to predict future financial implications. However, to guard against this the appellant has submitted a completed Unilateral Undertaking (UU).

6. The effect of the UU would enable the planning permission to be implemented but crucially only in respect of one room. The remainder of the building occupied by the surgery would therefore not be at risk of the change of use until it has vacated the building, or any parts thereof.

7. The proposal would therefore not threaten or result in the loss of the current surgery and, based upon the available evidence, the continuity of medical provision in the area would not be at risk. The use of the UU would meet the tests described in paragraph 56 of the National Planning Policy Framework as well as Regulations 122 and 123 of the CIL[2] Regulations.

8. The change of use would not be harmful to the provision of a local community facility and so would accord with Policy CP6 of the Winchester District Local Plan Part 1 – Joint Core Strategy, adopted March 2013 (the WLP). This policy, amongst other things, seeks to ensure that development proposals should not threaten or result in the loss of premises or sites used to provide services and facilities unless this is part of an agreed plan to provide improved local services in equally accessible locations. Given the change of use would not result in the net loss of a town centre use, it would also accord with Policy DM7 of the WLP.

Other Matters

9. The site forms part of an area known as Silver Hill where there are development proposals for a comprehensive mixed-use scheme, as identified within Policy WIN4 of the Winchester District Local Plan Part 2 Development Management and Site Allocations Development Framework, adopted April 2017. The Council accepts that it may not be reasonable to expect the proposal to meet all of these policy requirements, and I have little evidence to persuade me that allowing the appeal would have the effect of delaying the redevelopment of this area.

10. In determining the appeal, I have duties to pay special attention to the desirability of preserving or enhancing the character or appearance of the Winchester Conservation Area. However, this is not a matter in dispute between the parties and I am satisfied on the evidence before me, given the change of use would not result in any material alteration to the design or

[1] Council Ref 15/02897/FUL
[2] Community Infrastructure Levy

layout of the building or site, that it would preserve the character and appearance of that Area.

Conditions

11. The standard time limit condition is necessary which affords a period of 3 years for the development to begin. The way in which the scheme is then implemented is controlled by the UU and so a bespoke condition is not necessary. A plans condition is however necessary in the interests of certainty.

12. The Council has suggested restricting the use to within Class B1(a), offices, and in section 18 of the planning application form a B1(a) use for the site is specified. In the interests of controlling the future use of the building, given the constraints of the site in this city centre location and the intended regeneration of the Silver Hill area, such a condition is therefore reasonable and necessary.

Conclusion

13. For these reasons and having regard to all other relevant matters raised, I conclude that the appeal should be allowed.

Paul T Hocking

INSPECTOR