
Appeal Decision

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 30 June 2020

Appeal Ref: APP/Y3940/W/19/3232059

112 High Street, Cricklade, SN6 6AF

- 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 Acton Holdings Ltd against the decision of Wiltshire Council.
 - The application Ref 19/03141/FUL, dated 26 March 2019, was refused by notice dated 22 May 2019.
 - The development proposed is change of use of vacant A2 premises to single residential unit C3a to include single storey rear extension (43 square metres) and associated internal and external alterations.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I consider that this appeal can be determined without the need for a physical site visit. This is because I have been able to reach a decision based on the information already available. Both the appellant and the Council were given an opportunity to provide comments on this approach and I have taken any responses into account.
3. The appeal proposal relates to the change of use of the former Lloyds Bank building to a use as a residential dwelling. To facilitate the use the works would involve various internal works, alterations to the front elevation, the removal of an existing single storey extension to the rear and erection of a new rear extension.
4. The property is a grade II listed building. It also lies within the Cricklade Conservation Area. This appeal relates only to the planning application for the development. An associated Listed Building Consent for the alterations necessary to facilitate the scheme ref 19/03568/LBC, was granted consent in 22 May 2019.
5. S16(2) and S66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require special regard to be had to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses. S72(1) of the Act requires special attention to be had to the desirability of preserving or enhancing the character or appearance of a Conservation Area.
6. The Council have confirmed that subject to conditions controlling certain elements of the detailed proposals, the proposed works are considered to

conserve the heritage asset and sustain its positive contribution to local character and distinctiveness. I see no reason to dispute this view.

Main Issue

7. Accordingly, the main issue for the appeal is whether the loss of a community facility would harm the vitality and viability of Cricklade as a Local Service Centre.

Reasons

8. The development plan for the area is made up the Wiltshire Core Strategy 2015 (CS), the North Wiltshire Local Plan 2011(LP), and the Cricklade Neighbourhood Plan 2018 (NP). The site lies within the Cricklade Town centre Secondary Frontage.
9. Policy 49 of the CS relates to the protection of rural services and community facilities¹. Cricklade is designated as a Local Service Centre which footnote 98 of the plan confirms is considered a smaller settlement for the purposes of the policy. It states that changes of use will only be supported in such instances where the building is no longer viable for a community use, included alternative community uses, or a mixed use. The policy also requires that the marketing plan is undertaken to demonstrate that such options are not feasible.
10. The proposal would lead to a loss of the premises from use as a community facility. Policy 49 of the CS seeks to protect the vitality of smaller settlements in Wiltshire by, where appropriate, retaining premises in community use. Before premises are lost to alternative non-community uses the policy requires that the premises are considered for alternative community uses where the existing occupier vacates such premises. The policy sets out detailed requirements to be undertaken to demonstrate that a non-community use is not feasible, including the comprehensive marketing of the property.
11. The application was not accompanied by any substantial information relating to the marketing. Information from a third party working on behalf of the appellant has since been submitted in relation to the appeal. This provides some information but is deficient in a number of respects. No convincing evidence is submitted to verify that the premises were actively marketed. There is no documentary evidence to demonstrate the period during which the property was marketed or the extent to which the premises was put forward as a potential venue for a non-retail use. Crucially, there is no indication of the value at which the property was marketed or whether this value was realistic.
12. I am advised that the bank now operates from a mobile facility in the town centre and that as a result the service to local residents would not be lost. Whilst this would to some extent ensure that residents would have access to banking facilities, I am nonetheless of the view that if the premises were changed to residential use, the premises would no longer be available for use as a community facility. As a result this would reduce the capacity of the settlement to provide for a range of community facilities, to the detriment of the vitality and viability of the settlement.

¹ The supporting text of the policy refers to Community Uses as rural facilities and services that benefit the local community such as local shops, meeting places, sports venues, cultural buildings, public houses and places of worship. Accordingly I have used the same terminology.

13. I note that the site was originally a dwelling, but its commercial use is well established having been in use as a bank for a long period and I give this matter little weight. The premises lack a display window and I am conscious that as the property is listed this may limit the potential for internal alterations and the acceptability of the property for some future occupiers. Nevertheless, in the absence of any convincing evidence to demonstrate that a future community use, including a mixed use of the premises, is not possible, I cannot conclude that use as a community facility or service would not be feasible in this case.
14. I must therefore conclude that in the absence of any convincing evidence that the viable re-use of the premises for a community facility or service has been discounted, the proposal would fail to comply with Policy 49 of the CS and with Policy LAF8 of the NP which has similar aims.
15. I have considered how far the Policy 49 is consistent with guidance in the 2018 revision of the National Planning Policy Framework (the Framework) as the Core Strategy predates this. Paragraph 85 of the Framework acknowledges the role town centres play in supporting local communities and acknowledges the role residential development can play in ensuring the vitality of town centres. Paragraph 83 states that in rural areas planning policies and decisions should enable the retention and development of accessible local services and community facilities. In applying a rigorous approach to ensuring existing centres have sufficient facilities to meet local needs the policy is consistent with the aim of the Framework to provide accessible services which support the health, social and cultural well-being of local communities. The policy does not preclude residential uses, as it allows for mixed uses where appropriate, and allows for residential use when a community service use has been discounted. I therefore consider that policy 49 of the CS is consistent with guidance in the Framework and that the proposal would also conflict with the national guidance set out above.
16. Neither do I accept that in adhering to the requirements of Policy 49 would result in a breach in the human rights of the appellant. I have no reason to consider that the development plan is not legally compliant and therefore do not consider that the Protocol 1, Article 1 of the Human Rights Act has been breached.
17. Policy LAF8 of the NP reflects the desire of the local community to retain existing local services. The loss of community facilities including the appeal property will only be supported where the non-viability of that use has been demonstrated. The Neighbourhood Plan also predates the Framework. I note that Lloyds Bank is specifically listed within the plan as a community facility which the Plan wishes to see retained. Although Fig 18 refers to Lloyds Bank I am conscious that it would not be feasible for a planning policy to require that an occupier remains in a premises. I have therefore interpreted Fig 18 and the wording of the policy to relate to the use of the premises, not the specific occupier. As the policy recognises that other uses may be acceptable in cases of non-viability, I consider the policy to be in accordance with national guidance in the Framework outlined above. The proposal would therefore also conflict with Policy LAF8 of the NP.
18. The appellant has drawn my attention to other policies in the Neighbourhood Plan. The site lies outside the Primary Shopping Area and so the proposal would not conflict with policy B1, although this would not remove conflict with LAF8. The appellant has also referred to policy B2. Insofar as the proposed use would appear to have limited scope for supporting tourism, I see limited relevance for this policy in this case.

19. The Council have also referred to Saved Policy R2 of the LP, which seeks to control the nature of uses within the secondary frontages of town centres to ensure that a proliferation of retail and leisure proposals does not undermine the primary retail frontages. Insofar as the policy appears to relate to proposals for changes of use to uses within classes A, D1 and D2, I find that the policy has limited applicability to the proposal before me.

Other Matters

20. The proposal would make a small contribution to the supply of housing in the District. The Council do not dispute that a five year supply of housing land cannot be demonstrated at this time. However, even if I were to accept a deficit of housing of the extent put to me by the appellant, the contribution a single house would make to housing supply would be very limited.
21. The Council acknowledges that the proposal would bring improvements to the appearance of the rear of the building and I agree that this would bring some visual improvements, a matter to which I attribute some limited weight. A reconfiguration of the parking also has the potential to improve the relationship with the public right of way but since I have no convincing evidence that there are currently conflicts between pedestrians and vehicles. I give the matter only very limited weight. I note that the premises are currently vacant and that the proposal is supported by the Town Council but neither of these matters adds to the merits of the proposal.

Conclusion

22. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework is one such consideration.
23. In line with Paragraph 11 of the Framework, the absence of a five year supply of housing means that relevant policies in the adopted development plan are out of date and the Framework directs that in such circumstances development proposals should be permitted, unless the harm arising from the proposal significantly and demonstrably outweighs the benefits when assessed against the policies in the Framework, taken as a whole.
24. I acknowledge the collective benefits of the scheme, including the small contribution to housing and the visual and other improvements the scheme would provide to the rear of the site. Taken together these carry some weight. However, the loss of premises from use as a community service or facility would harm the capacity of the settlement to provide community services and facilities and so would diminish the vitality of Cricklade as a Local Service Centre. This harm would significantly and demonstrably outweigh the identified benefits of the scheme.
25. The proposal would not therefore represent sustainable development and material considerations do not indicate that planning permission should be granted.
26. Accordingly, having regard to all other matters raised, the appeal is dismissed.

Anne Jordan

INSPECTOR