

Appeal Decision

Site Visit made on 22 September 2020 by Emma Worby BSc (Hons) MSc

Decision by Andrew Owen BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 October 2020

Appeal Ref: APP/X3540/W/20/3249082

Nourish, 25B Mill Road, Newbourne IP12 4NP

- 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 Ball against the decision of East Suffolk Council.
 - The application Ref DC/19/3299/COU, dated 19 August 2019, was refused by notice dated 17 January 2020.
 - The development is a change of use from A1 (Farm Shop) to A3 (Café).
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from A1 (Farm Shop) to A3 (Cafe) at Nourish, 25B Mill Road, Newbourne IP12 4NP in accordance with the terms of the application, Ref DC/19/3299/COU, dated 19 August 2019 and the plan Ref no. 19-051-PL-01.

Appeal Procedure

2. The site visit was undertaken by an Appeals Planning Officer whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. Since the appeal was submitted a new Suffolk Coastal Local Plan (SCLP) was approved on 23 September 2020 and so the policies in the Suffolk Coastal District Council Local Plan Core Strategy and Development Management Development Plan Document referred to in the decision letter are now superseded. Therefore the appeal will be considered against the policies from this newly adopted local plan.
4. The application was submitted retrospectively, and I saw at my site visit that the building was being used as a café and deli under the name 'Nourish'. I have therefore considered the appeal on a retrospective basis.
5. The appeal site is a single storey L-shaped building set back from Mill Road, with car parking to the front and an outdoor seating area. There is also a smaller outbuilding to the rear with an additional area for car parking. The building was previously used as a farm shop and is currently used as a café. These two uses were previously categorised in the Town and Country Planning (Use Classes) Order 1987 as A1 (shops) and A3 (restaurants and cafes), thereby requiring planning permission to change from one to the other. However, under the Town and Country Planning (Use Classes) (Amendment) (England) Regulation 2020, the use classes A1 and A3 have been revoked and

since 1 September 2020 now fall under a single use, class E (commercial, business and service).

6. As the use of a building or land for any other purpose within the same class shall not be taken to involve development of the land, under the current Use Class Order the change of use from a shop to a café is not development and would therefore not require planning permission. Although the application and appeal were submitted prior to these changes, they should be given considerable weight.

Main Issue

7. The main issue in the appeal is whether the café is in a suitable location having regard to its accessibility by sustainable modes of transport and to the Council's settlement hierarchy.

Reasons for the Recommendation

8. The site is within the village of Newbourne. It is a village with limited services as evidenced by its categorisation in SCLP Policy SCLP3.2 as a 'small village'. As such the café invariably attracts customers from outside the village who, most likely, use their private cars to get there. However, its previous use as a farm shop would also have been likely to generate similar transport movements. Therefore, it is not considered that the amount of people travelling to the café by car would be significantly different from its previous use as a farm shop. Furthermore, as demonstrated by comments from the local parish council, the café is currently used by local people who would not necessarily need to travel to the site by car.
9. Policies SCLP4.8 and SCLP4.12 seek to focus retail development towards Town, District or Local Centres, and it is not considered that the site is within these such areas. Nonetheless, Policy SCLP4.5 encourages economic development in rural areas and policy SCLP8.1 supports community facilities. It is clear that this small café meets the needs of the local community, provides some employment opportunities and accords with the scale of the settlement. I therefore do not consider any significant harm is caused to the settlement hierarchy by the development.
10. Overall the proposal does not accord with Policies SCLP3.2, SCLP3.3, SCLP4.8, SCLP4.12 which seek to prevent town centre development in the countryside and direct retail development to accessible town centre sites. Moreover, as the development does not comprise a farm shop, Policy SCLP4.7, which supports farm shops, is not applicable.
11. The proposal does, however, accord with policies SCLP3.1, SCLP4.5, SCLP7.1 and SCLP8.1 which seek to ensure appropriate growth in rural areas, with development at a scale which accords with the settlement hierarchy and meets the needs of the local community who can travel to the site using non-car modes.
12. Policies SCLP6.1 and SCLP6.4 are not relevant to the appeal before me as although tourists may use the café, it is not solely tourist related development and would largely be used by local people. Policy SCLP11.9 has also been referred to, but this has little relevance to the development as it refers to the retention of buildings in horticulture or agriculture use.

13. In conclusion, although the proposal would be contrary to some policies within the Council's Local Plan, the conflict with these policies is outweighed by the changes to the Use Classes Order which sets out that a change from a shop to a café is no longer development.

Conditions

14. The Council have suggested conditions it would wish to see were the appeal allowed. The suggested commencement of development condition is not necessary as the change of use has already commenced. Also, I have referred to the approved plans within the terms of the decision such that a separate condition specifying the plans is not necessary. I do not consider a condition relating to building materials is necessary given the proposal is only for a change of use.
15. The Council have suggested a condition limiting the hours of operation. However, given that the use of the site as a café is allowed for by the alterations to the Use Classes Order and that no restrictions on opening hours are set out in that Order, it would not be reasonable for me to impose any such restrictions here.
16. Similarly I do not consider it would be necessary to impose a condition, such as that suggested by the Council, identifying the use for which the site may be lawfully used, given that the permitted use is clearly set out in my decision and other lawful uses are controlled by the Use Classes Order.

Conclusions and Recommendation

17. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal is allowed.

Emma Worby

APPEALS PLANNING OFFICER

Inspector's Decision

18. I have considered all the submitted evidence and the Appeal Planning Officer's report and on that basis the appeal is allowed.

Andrew Owen

INSPECTOR