



Appeal Decision

Site visit made on 24 November 2020

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 December 2020

Appeal A Ref: APP/L1765/W/20/3258336 **20 Brambridge, Brambridge SO50 6HZ**

- 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 K Dalton-Harrison against the decision of Winchester City Council.
 - The application Ref 19/02434/FUL, dated 4 December 2019, was refused by notice dated 28 February 2020.
 - The development proposed is the change of use from retail with living accommodation to 100% dwelling with single storey extensions and elevational alterations.
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Appeal B Ref: APP/L1765/W/20/3258335 **20 Brambridge, Brambridge SO50 6HZ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr K Dalton-Harrison against the decision of Winchester City Council.
 - The application Ref 20/01202/PNRCOU, dated 11 June 2020, was refused by notice dated 10 August 2020.
 - The development proposed is the proposed change of use from A1 to C3.
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Decision

1. **Appeal A** is allowed and planning permission granted for change of use from retail with living accommodation to 100% dwelling with single storey extensions and elevational alterations at 20 Brambridge, Brambridge SO50 6HZ in accordance with the terms of the application, Ref 19/02434/FUL, dated 4 December 2019, subject to the following conditions:
 - 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
 - 2) The development hereby approved shall be constructed in accordance with the following plans: Proposed Floor Plans and Elevations (Drawing Number: 101_B) and Location and Proposed Site Plan (Drawing Number: 102_A).
2. **Appeal B** is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO 2015) for the change of use from A1 to C3 at 20 Brambridge, Brambridge SO50 6HZ in accordance with the details submitted through application Ref 20/01202/PNRCOU, dated 11 June 2020 and subject to the following conditions: that (a) development under Class M(a), and under Class M(b), if

any, must be completed within a period of 3 years starting with the prior approval date; (b) a building which has changed use under Class M is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse, and subject to the plan Proposed Alterations Drawing No 103.

Application for costs

3. An application for costs in respect of both appeals was made by Mr K Dalton-Harrison against Winchester City Council. These applications are the subject of a separate Decision.

Procedural Matters

4. Appeal A is a planning application that seeks to incorporate the shop space into the existing residential use on the ground and first floor. The result would be the loss of the shop and a combined single unit of residential accommodation. The proposal includes external changes and extensions.
5. Appeal B is an application under Class M of Part 3 of Schedule 2 of the GPDO 2015 to change the use of the shop to a separate dwelling. This would result in two dwellings within the building. The Council accept that the conditions of permitted development as set out in paragraphs M.1.(a)-(g) are met and I have found no reason to disagree. However, the Council has concluded that prior approval should be refused for the scheme because, having regard to paragraph M.2.(1)(d)(i) it would be undesirable for the building to change to a dwelling because of the impact of the change of use on adequate provision of services of the sort that may be provided by a shop, but only where there is a reasonable prospect of the building being used to provide such services.
6. I am aware of the recent revisions to the Use Classes Order and the new Class E (Commercial, Business and Service)¹. However, Regulation 4 sets out transitional arrangements and requires that if an application has been submitted under the earlier list of use classes then the application must be determined by reference to those uses and use classes.

Main Issues

7. The main issue in respect of **Appeal A** is whether the development plan would support the loss of the shop in this location, having regard to the requirement for any replacement or the ability for the space to provide other community services and facilities, and the effect on the ability for local residents to access services and facilities by sustainable transport modes.
8. The main issue in respect of **Appeal B** is whether it would be undesirable for the building to change to a dwelling because of the impact of the change of use on adequate provision of services of the sort that may be provided by a shop having regard to whether there is a reasonable prospect of the building being used to provide such services.

¹ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

Reasons

9. The shop lies outside the main built form of Colden Common, within the hamlet of Brambridge. The site lies in generally rural surroundings with housing along parts of the adjoining roads. The evidence indicates that the shop traded for many years as a general store. The adjoining residential properties, where occupiers would be within a convenient walking distance of the shop, are reasonably limited in number and in all probability the premises also relied on trade from passing motorists. The building is located adjoining a hair salon and a public house which provides a small grouping of local services and facilities.
10. The evidence submitted at the application stage, and supplemented at the appeal stage, shows that the shop revenue has been affected by increasingly difficult trading conditions. The evidence indicates that the revenue declined over many years before the premises finally closed in December 2019.
11. I afford considerable weight to the comments of the Colden Common Parish Council which were submitted at the appeal stage. The Parish Council explain that the loss of this parish amenity has caused considerable concern particularly as more development has been occurring in the village. The Parish Council, however, while not openly supporting the proposal, acknowledge that the viability of the shop in this location is a concern when the other general store benefits from a large car park, variety of stock given its comparable size, a post office, bakery, coffee machine and cash machine. The Parish Council also note that in addition to the facilities of this other shop it is also physically located next to key amenities in the village with a high footfall, such as the doctor's surgery, community centre, take away, play area, preschools and primary school.
12. I saw these facilities at my site visit and the other general store is located conveniently for many residential properties in Colden Common. However, the appeal premises are disadvantaged by comparison being located beyond the main built form in an area designated as countryside.
13. The appeal premises have been marketed by professional agents since March 2019. It was initially marketed as a going concern with the asking price including the goodwill, and fixtures and fittings. Following the closure of the shop, a marketing board was erected outside. With the premises being empty and the fittings removed by the end of about March 2020, the evidence indicates that this allowed an alternative marketing strategy. This further marketing took place after the refusal of planning permission and appears to have allowed a greater opportunity for potential occupiers to give practical consideration for other types of uses for the floorspace. This has complemented the marketing of the premises while they were still occupied. Taken together I consider that the marketing details now available at the appeal stage show that efforts to find an occupier of the commercial floorspace have been comprehensive. An analysis of feedback has been provided and this indicates that of the 19 formal inquiries from a range of potential user types, no formal offers were received.
14. I am satisfied that the marketing evidence, together with the analysis of local trading conditions, identification of competing shops in the area and the general retail trends, leads to the conclusion that there is no reasonable prospect of the shop reopening with a new tenant or with an alternative community service or facility.

15. It would be undesirable for the shop use to be lost as the alternative general store would not be as convenient for some local residents and this may increase their private vehicle movements. However, the harm from these additional vehicle movements would be limited because of the modest number of local residents who would be affected. Furthermore, with no reasonable prospect of a shop use occupying the space, these residents would have to travel in any case and the other general store, while not as convenient, is nevertheless within the adjoining village area. Furthermore, the proposed residential use would be a beneficial and acceptable alternative, either in the form of the extension to the existing accommodation or as a separate residential unit.
16. For these reasons, the criteria that would allow the loss of a local service and facility as set out in Policy CP6 of the Winchester District Local Plan Part 2 (adopted April 2017) (the Local Plan) would be met. In particular, the marketing since the premises have been empty as enabled me to be satisfied that the policy requirement to demonstrate that there is no reasonable prospect that the space could be used for an alternative service or facility which would benefit the local community has been complied with.
17. It follows in terms of Appeal A that I conclude that the development plan policies, when considered as a whole, would support the loss of this local facility. The replacement with residential accommodation, together with the alterations and extensions, would make an effective and acceptable use of the land. As a consequence, there would not be a conflict with Policies MTRA1, CP6 and DS1 of the Local Plan which seek, amongst other things, to protect local services and facilities unless it can be demonstrated that the policy criteria is met to allow the loss of such uses.
18. Bringing all these matters together in terms of Appeal B, it would be undesirable to lose the shop use because for those immediate residents there would not be as adequate provision of convenience goods. It follows that the loss of the shop space would increase vehicle movements undertaken by those local residents to access equivalent facilities, albeit to a limited extent. However, as there is no reasonable prospect of the shop reopening, this prior approval criterion is met as a whole and I conclude that the appeal should succeed on this ground. Consequently, as I have found that all other prior approval matters are acceptable, Appeal B should be allowed.

Conditions

19. In respect of Appeal A, I have had regard to the conditions suggested by the Council and the advice in the Planning Practice Guidance. The statutory time limit is required and a condition specifying the approved plans is necessary in the interests of certainty. The Council have not recommended any other conditions and I agree that no other conditions are necessary as the proposed development is clear from the plans and accompanying details.
20. In respect of Appeal B, the approval is subject to the standard conditions set out in the GPDO 2015. No other conditions, which would need to be related to the prior approval matters, are necessary.

Conclusion

21. For the above reasons, I conclude that both Appeal A and Appeal B should succeed.

David Wyborn

INSPECTOR