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# Appeal Decision

Site visit made on 21 June 2021

**by Mrs H Nicholls FdA MSc MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 13 July 2021**

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**Appeal Ref: APP/V3310/W/21/3272002**

**26 - 28 Wembdon Hill, Wembdon, Bridgwater TA6 7PZX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) (as amended).
  - The appeal is made by Mr Norman Parsons against the decision of Sedgemoor District Council.
  - The application Ref 51/21/00008, dated 15 February 2021, was refused by notice dated 23 March 2021.
  - The development proposed is application for the prior approval of the proposed change of use of Shop (Use Class A1) to residential lounge / dining room.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. The description of development has been taken from the Council's decision notice as it more concisely describes the proposal.
3. Schedule 2, Part 3, Class M of the GPDO provides for a permitted development right for the change of use of a building falling within use class A1 (shops) to dwelling houses. This is subject to limitations and conditions, as set out in subsequent paragraphs of Class M of the GPDO.
4. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the Regulations) have come into force since the submission of the application to which this appeal relates which would be likely to have implications for the classification of the use of the building at the appeal site. However, as a result of Sections 3(2) and 3(3) of The Regulations, the abovementioned permitted development rights shall continue to apply to buildings that fell within Class A1 of the UCO<sup>1</sup> on 31 August 2020 until 31 July 2021. Moreover, The Regulations clarify that all references within the GPDO to the Classes of the UCO shall be applied as they did on 31 August 2020. I shall determine the appeal on that basis.
5. Prior approval was refused on the basis that the proposal fails to meet the conditions set out in paragraph M.2(1)(d) of the GPDO, as in the Council's view it would be undesirable to allow the change of use, as whilst the site is not located in a key shopping area, the proposal would be detrimental to the availability of retail services in the area. However, in all other respects, the

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<sup>1</sup> The Town and Country Planning (Use Classes) Order 1987 (as amended)

evidence before me indicates the proposal meets the relevant legislative requirements set out in the GPDO.

### **Main Issue**

6. The main issue is whether or not there is a reasonable prospect of the continued use of the existing building for retail purposes and if so, whether the proposal is undesirable, having regard to the relevant test set out in the GPDO.

### **Reasons**

7. The appeal site is formed from a small convenience store forming part of Nos 26 – 28 Wembdon Hill which was open for trade at the time of my visit. The shopfront projects into the streetscene whilst the dwelling, occupied by the appellant, is set behind it and can be accessed internally from within the shop. The surrounding area is otherwise residential in both directions along Wembdon Hill, with other village facilities, including the Church, located elsewhere.
8. Whilst it was previously a dwelling without any shop attached, the shop has become an established everyday village facility over a substantial period. The shop offers a range of everyday goods, including a Post Office counter, to cater for the immediate needs of the local residents within walking distance along routes with footways from most areas of the village.
9. The village shop is listed in the Wembdon Neighbourhood Development Plan (WNDP) (adopted 2019) as an 'Important Community Facility' (ICF) under Policy WB4. The Policy seeks to prevent the loss or compromise to the viability of ICFs unless it can be demonstrated that they are no longer required for their use or that the proposed development would provide a facility of equal community benefit. No alternative facility is included as part of the proposal.
10. The VNDP also identifies a service station with attached convenience store as an ICF (Greenaway Garage, now Wembdon Service Station). This facility is open 24 hours a day but caters for a wider pool of customers than just Wembdon village itself given its position on the A39 Quantock Road. It is not a location that can be easily reached on foot or cycle from Wembdon. Whilst I have no doubt it is a valuable complementary service, it caters more for carborne customers, which could exclude a range of residents from within the village. From the evidence, the nearest shop that otherwise offers a Post Office facility is 1.5km away, which would result in a greater number of car journeys being made by residents of Wembdon to access such a facility.
11. Whilst it is alleged that the upgraded Wembdon Service Station and other such businesses on the periphery of Wembdon and within nearby Bridgwater have significantly affected the viability of the village store, I have seen limited evidence to support such a claim and to date, the store is still trading. The submitted marketing evidence relating to the attempt to sell the dwelling and store as a going concern dates back to 2013 and 2018, with further suggestion from the appellant that the asking price in 2020 was around 25% lower than previous years. Whilst I accept that these attempts were genuine, I have limited evidence of the more recent marketing efforts or any details that suggest that there are no other viable solutions, such as leasing the premises independently of the dwelling, either solely as a convenience retail premises or for an alternative use under Class E.

12. Added to the failed attempts to sell the premises, I also note the appellant's reference to his family circumstances and declining health. Whilst I am cognisant of these circumstances, the prior approval process is concerned solely with the limitations and conditions set out in the GPDO. These matters are not therefore germane to my assessment of the appeal proposal.
13. Having regard to all matters detailed above, and from the evidence before me, the proposal would be undesirable having regard to the impact on the provision of retail facilities within the local area.

### **Conclusion**

14. For the reasons set out above, I conclude that it would be undesirable for the use of the building to change to a use falling within Class C3 of the Schedule to the UCO from a use that fell within Class A1 of that Schedule to the UCO on 31 August 2020. Therefore, the appeal is dismissed.

*Hollie Nicholls*

INSPECTOR