



Appeal Decision

Site Visit made on 14 September 2021

by Rachel Hall BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 October 2021

Appeal Ref: APP/G1630/W/21/3276387

73 St Johns Avenue, Churchdown, Gloucester GL3 2DH

- 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 Shane Davis against the decision of Tewkesbury Borough Council.
 - The application Ref 20/00815/FUL, dated 19 October 2020, was refused by notice dated 25 March 2021.
 - The development proposed is described on the application form as 'erection of a single storey side extension for A1 use for a hairdressing salon'.
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Decision

1. The appeal is allowed and planning permission is granted for erection of a single storey side extension for A1 use for a hairdressing salon at 73 St Johns Avenue, Churchdown, Gloucester GL3 2DH in accordance with the terms of the application, Ref 20/00815/FUL, dated 19 October 2020, subject to the conditions in the attached schedule.

Preliminary Matters

2. At the time of my site visit the structure of the single storey extension was in place but the development was not complete. The proposal is therefore partly retrospective and I have determined the appeal on that basis.
3. Notwithstanding the description of development above, following an amendment to the Town and Country Planning (Use Classes) Order 1987 which came into force on 1 September 2020, Use Class A1 now comes under a new Class E use. In that context the Council has suggested, were I to allow the appeal, that the proposal be limited to retail use only. Whilst I understand that perspective, nevertheless any changes between the types of uses specified in paragraphs (a) to (g) of Class E do not require planning permission.
4. As reasoned subsequently, such a condition would not be reasonable or necessary in the circumstances of this appeal. Consequently I have assessed the development proposed as for a Class E use. The appeal process has afforded suitable opportunity for comment on that legislative context; the appeal being made on 3 June 2021, the foregoing changes to use classes having come into force on 1 September 2020.

Main Issues

5. The main issues are the effect of the proposed development on:
- the character and appearance of the east side of St Johns Avenue; and
 - the vitality and viability of the local retail centre at St Johns Avenue.

Reasons

Character and appearance

6. The appeal site is the last house in a row of four pairs of two-storey semi-detached houses fronting on to St Johns Avenue. These houses appear to have been built at a similar time and to a similar typology, positioned to a common building line. This consistency of design is a positive feature of the character of this side of St Johns Avenue. The site occupies a corner plot which extends up to the junction with Goodmoor Crescent. It is directly opposite the local retail centre at St Johns Avenue, comprising a small parade of shops ('the Parade'). The site is also diagonally opposite units currently occupied as a pharmacy, chiropodist and optometrists. As such, whilst the site is currently in residential use the character of the area immediately around it is defined by a mix of residential, retail and health facilities.
7. The proposal would be single storey and set slightly back from the building line of the two storey elements of houses on this side of the road. It would therefore appear subservient to these existing buildings and would not detract from the pleasing consistency of design of houses present here. Whilst the character of the appeal site would be altered from purely residential to a mix of residential and commercial, the largely glazed frontage of the extension would differentiate it from that of the main house and other houses along this side of the road. As such it would not appear to encroach unduly on the residential character of these houses.
8. The proposal would be seen against a backdrop of residential uses in some views, and would be the first non-residential use on this side of the road in the locality. However its position on a corner plot would increase the visibility of non-residential uses on approach from the south west, aiding legibility of the local centre on approach from Morley Avenue. Consequently it would make a positive contribution to the character and appearance of the area without significantly altering the residential character of the eastern side of St Johns Avenue. It would therefore accord with Policy SD4 of the Joint Core Strategy which, amongst other matters, seeks to ensure proposals respond positively to the character of their surroundings. It would similarly accord with paragraph 130 of the Framework¹ which requires that proposals are sympathetic to local character while not preventing appropriate innovation or change.

Vitality and viability of the local retail centre

9. At the time of my site visit uses within the Parade included a small supermarket and post office, funeral directors, betting shop, bakery, hairdressers and a charity shop. Two units appeared vacant, the larger of which was advertised on site as a farm shop and deli, to be opening soon. As such,

¹ National Planning Policy Framework (2021)

whilst there were a small number of vacant units, the majority of the frontage was in active use.

10. Saved Policy RET4 of the Tewkesbury Local Plan to 2011 (adopted 2006) applies where single retail units are proposed within residential areas and is relevant here. The policy supports such proposals provided three criteria are met. In this instance, whilst some existing customers may travel from outside of the area to the appeal site, it would be likely to primarily serve the needs of the surrounding local community. It would also be of an appropriate size and scale for this purpose, thus satisfying criterion one. Similarly, nothing in the evidence before me suggests that it would unacceptably harm the living conditions of neighbouring residents, being sufficiently separated from neighbouring properties due to its corner plot location. Given the scale of the proposal, accessibility of the site and the range of parking provision in the locality, it would not be likely to result in an unacceptable increase in traffic or materially alter parking availability, thus satisfying criterion two.
11. Policy RET4 does not address the presence or otherwise of vacant units in existing centres, only that there should be no adverse effect on vitality and viability of such centres. The appeal scheme would enable a new business to be located in a highly accessible location. It would result in a new, active frontage, immediately opposite other active frontages, with the potential to increase footfall in the area, to some small extent. The Council also acknowledges the potential for the proposal to result in small spin-off commercial benefits, which would occur whether it was located as proposed or within the Parade. Whilst it would be desirable for all existing vacant units to be filled, no robust evidence is before me to indicate that the proposal would adversely affect the vitality and viability of the Parade.
12. I accept that there is limited evidence before me as to whether there are other 'suitable sites' as referred to in policy RET4. I understand that the aim of that provision is to encourage re-use of existing facilities and to avoid a potentially detrimental proliferation of commercial uses. However I have reasoned above that the proposed unit would be suitably located in terms of proximity to the existing Parade. I saw that there are few, if any, comparable sites in the vicinity thereof where such new units may be proposed. Moreover I have reasoned that the proposal would likely entail positive benefits to the Parade, and that there is little robust evidence of the availability of established units.
13. In addition, I note that emerging Policy RET5 of the Pre-submission Plan² reiterates the three criteria as set out in saved Policy RET4. It also specifies that the sequential approach will not apply to proposals for retail units of under 280sqm gross floorspace. On the evidence before me the proposal falls considerably below the threshold at which a sequential approach would be necessary.
14. Concluding on this matter I find that the appeal scheme would not harm the vitality and viability of the local retail centre at St Johns Avenue. It would accord with the objectives of saved Policy RET4 which supports proposals for new, small shop units within residential areas, and with emerging Policy RET5 of the Pre-submission Plan.

² Pre-Submission Tewkesbury Borough Plan 2011-2031 (October 2019)

15. The proposal would also make a small contribution to an aspiration expressed at Table 8.1 of the Churchdown and Innsworth Neighbourhood Plan 2018-2031 (June 2020) for an increase in the number and range of local shops in Churchdown. For similar reasons it would accord with paragraph 93 of the Framework, which requires decisions to plan positively for the provision of community facilities, including local shops and services, to enhance the sustainability of communities and residential environments.

Other Matters

16. I have had regard to comments raised by third parties, including in respect of the appellant's approach to securing planning permission, the presence of an existing hairdressing salon in the Parade and the potential competitive advantage to the appellant of avoiding rent payments there, and highway safety. I have considered these carefully, however none of these are sufficient to outweigh the considerations that have led to my findings in respect of the main issues of this case (principally as they relate to matters tangential to the planning merits of the scheme).

Conditions

17. The Council suggested conditions in the event that the appeal is successful, and I have considered these and amended them as necessary, without altering their meaning, in light of the Framework and Planning Practice Guidance. The standard time limit condition is not required on the basis that the proposal is partly retrospective. It is necessary to specify the approved plans as this provides certainty. In order to protect the character and appearance of the area, a condition requiring approval of external materials to be used in the construction of the shop front is required, to be approved prior to the premises being brought into first use.
18. A condition specifying the hours between which use of the premises can occur is required to protect the living conditions of neighbouring occupants. Finally, I have not imposed the Council's suggested condition to restrict the proposal to retail use as this would not be reasonable given the provisions of the Use Classes Regulations³, and no robust evidence is before me to suggest that such a condition would be necessary here.

Conclusion

19. For the reasons given above I conclude that the appeal should be allowed subject to conditions.

Rachel Hall

INSPECTOR

³ The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall be carried out in accordance with the following approved plans: PRO1, PRO2, PRO3, PRO4, PRO5.
- 2) The development hereby permitted shall not be first brought into use until details of the materials to be used in the construction of the shopfront shall first have been submitted to, approved in writing by the local planning authority, and installed as approved. Once installed as approved, those materials shall thereafter be retained.
- 3) The use of the premises hereby permitted shall only take place between the following hours: 0900 – 1800 Mondays to Saturdays, and not at any time on Sundays or on Bank or Public Holidays.