



Appeal Decision

Site visit made on 10 January 2023

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19th January 2023

Appeal Ref: APP/P1615/W/22/3306646

8 St. John Street, Coleford GL16 8AR

- 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 Anthony Jones against the decision of Forest of Dean District Council.
 - The application Ref P2039/21/FUL, dated 10 December 2021, was refused by notice dated 9 March 2022.
 - The development proposed is described as "conversion of existing ground floor shop to a one-bed holiday let, with retention of storage and office space associated town centre retail use and/or maintenance of holiday let"
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for an award of costs was made by Mr Anthony Jones against Forest of Dean District Council. That application is the subject of a separate decision.

Preliminary Matters

3. The local development plan was adopted prior to the most recent versions of the National Planning Policy Framework (the Framework), the Town and Country Planning General Permitted Development Order 2015, as amended (GPDO) and the Town and Country Planning Use Classes Order 1987, as amended. As set out in paragraph 219 of the Framework, policies should not be regarded as out of date simply because they were adopted before the Framework. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework and weight is a matter for the decision maker to judge in the circumstances of the case.
4. Paragraph 86 of the Framework requires planning policies and decisions to support the role that town centres play and make clear the range of uses permitted in such locations. It does recognise that residential development often plays an important role, but the focus is on ensuring the vitality of town centres. Policy AP55 of the Forest of Dean District Council Allocations Plan 2006 to 2026 (adopted June 2018) (AP) and Policy CT4 of the Coleford Neighbourhood Development Plan 2017-2026 (NDP) seek to support the vitality of town centres and protect their retail, financial and professional service provision, so remain broadly consistent with the Framework. Therefore, I afford substantial weight to any conflict with Policies AP55 and CT4.

5. Recent changes to the Use Classes Order introduced Class E, covering commercial, business and service uses. I consider there to be no fundamental contradiction between the Order as amended and Policies in the AP and NDP.
6. Class MA of Schedule 2 Part 3 of the GPDO has been raised as a potential fallback position. Class MA permits development consisting of a change of use from Class E¹ (commercial, business and service) to Class C3 (dwellinghouses), subject to meeting specified criteria and securing prior approval. This appeal does not relate to an application for prior approval and hence a determination of whether Class MA is applicable and whether prior approval would be given, if applied for, is outside of the remit of this appeal. A determination regarding Class MA, including whether the proposed use would fall under Class C3 or Sue Generis, would require an application to the Council in the first instance. However, I shall consider the evidence so far as it is material to this appeal.

Main Issue

7. The main issue is the effect of the proposed development on the vitality of Coleford Town Centre.

Reasons

8. 8 St Johns Street is a terraced property in a row of similar buildings within the Coleford Conservation Area. There is an existing flat at first floor and a shop at ground floor. The site lies within the Town Centre and an area of active town centre frontage, as identified within the AP. In such areas, Policy AP55 of the AP states that development will be expected to be confined to retail, financial and professional services and other uses that retain an active frontage. The policy goes on to say that conversion of ground floor space to residential will not be permitted and premises will be expected to retain a ground floor shop front. Policy CT4 of the NDP sets out that in the town centre, changes of use of retail premises to mixed offices and residential accommodation will be supported, but the loss of retail premises to wholly residential use will not be supported.
9. The proposal is not for retail, financial or professional services. It would convert a ground floor space to tourism accommodation which is primarily a residential use rather than a service use. The appellant has indicated that some form of shop front display would be retained, but how this would be achieved is unclear and not set out in the plans. Given that the current shop front would be the window serving the living space of the proposed holiday accommodation, I have no information which persuades me that this could be combined with the retention of an active retail frontage. Consequently, the proposal fails to comply with Policy AP55 of the AP.
10. The proposed plans include 2 modest areas to the rear referred to as service rooms. The appellant has indicated that the service rooms would be used for storage and servicing of the existing and proposed holiday accommodation at the site and other existing accommodation nearby. As such, I would consider these areas to form part of a residential use, much like a utility room in a house. The proposed plans also include a small administration room which the appellant says would be used as the office for their retail and holiday business. It is a very minor proportion of the overall area of the proposed holiday let and

¹ Use Classes are set out in The Town and Country Planning (Use Classes) Order 1987, as amended

the existing holiday let at first floor. Therefore, I would not consider the use of the site overall to be a mixed use of residential and office. Consequently, the proposal fails to comply with Policy CT4 of the NP.

11. The loss of a retail, financial or professional services use at the site, with active frontage, would be likely to result in a reduction in footfall, a decrease in the variety of the offer on this street and an associated decrease in the economic and social vitality of the town centre. I acknowledge that the Use Classes Order allows for a change of use to another use falling under Use Class E. However, as this use class covers commercial, business and service uses, any permitted change would be likely to retain an active frontage and make a similar contribution to town centre vitality as a shop.
12. I conclude that the proposed development would result in unacceptable harm to the vitality of Coleford Town Centre and would not comply with Policies AP55 of the AP and CT4 of the NP. Together, these policies seek to support the vitality of town centres and protect the provision of retail, financial and professional services with active frontages.

Planning balance

13. Class MA of the GPDO has been raised as a potential fallback in support of the proposal. One of the criteria to qualify for Class MA is that the building must have been vacant for a continuous period of at least 3 months immediately prior to the date of an application for prior approval. At the time of my site visit the ground floor was not vacant so cannot currently benefit from Class MA of the GPDO. This is regardless of whether the 3 month criteria might be met in future and regardless of whether other criteria and conditions could be met, including whether the proposed use would be classed as a C3 dwelling house.
14. With regard to the likelihood of the site becoming vacant, the appellant has indicated an intention to close the shop on 24th December 2022 and to subsequently move the retail business and combine it with another at a unit nearby. Despite this, I have been provided with no details to suggest that the site would be likely to remain vacant or that there is no demand for another retail, financial and professional services use that retains an active frontage. During my site visit I observed the immediate surroundings at street level as being a vibrant mix of shops, cafes, takeaways and services, all with active frontages and no obvious vacancies. A submission from Coleford Town Council indicates that the population of the town is growing and that a street survey in October 2022 shows high street vacancy rates at around half of the national average. Taking the above into account, any suggested fallback to Class MA is not currently a greater than theoretical possibility. Consequently, I give this matter limited only weight in favour of the proposal.
15. There are local and national policies which support tourism development. The proposal would provide additional tourist accommodation, with tourists making a contribution to the economy of the area and using town centre facilities. I acknowledge that tourism is an important element of the local economy and the appellant has experience of running tourism lets. Despite this, I have been presented with no substantive evidence to suggest that the area is lacking in tourist accommodation or that the economic contribution of one small tourist accommodation unit would be equal to or greater than a retail, financial or professional services unit, so I give this limited weight in favour of the proposal.

16. The proposal would be in a sustainable location, make efficient and effective use of land and have no significant impact on highway safety, heritage or biodiversity. However, these are expectations of an acceptable proposal and are thus a neutral element in the planning balance.
17. As set out above, I have identified conflict with the development plan. Planning law requires that determination must be in accordance with the development plan unless material considerations indicate otherwise. In this case, there are no material considerations of sufficient weight to indicate that permission should be granted contrary to the development plan.

Other Matters

18. I note reference to an appeal² at 2, High Street, Coleford where permission was granted to convert a shop to a dwelling. In that case, the site had been vacant for a number of years and work to allow modern retail use would have been constrained by costs and the building being Grade II listed. As such, there are material differences to the site and proposal subject to this appeal. In allowing the appeal at 2 High Street, the inspector noted they were unaware of any other retail premises within Coleford Town Centre that had been vacant for the same length of time and subject to the same constraints, so the decision did not set a precedent which could be of concern to the local community.
19. The established use of the ground floor of the appeal site is retail. That it was previously in residential use, around 40 years ago, does not change my reasoning.

Conclusion

20. For the reasons given above and taking into account the development plan as a whole and all other relevant material considerations, the appeal is dismissed.

Helen Davies

INSPECTOR

² Appeal reference APP/P1615/W/19/3241049.