



Appeal Decision

Site visit made on 11 February 2023

by Gareth W Thomas BSc(Hons) MSc(Dist) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 6 April 2023

Appeal Ref: APP/C1760/W/22/3295991

33 Church Street, Romsey SO51 8BT

- 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 James Karsenbarg against the decision of Test Valley Borough Council.
 - The application Ref 21/02189/FULLS, dated 16 August 2021, was refused by notice dated 14 October 2021.
 - The development proposed is Change of Use of Ground Floor to Dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for Change of Use of Ground Floor to Dwelling at 33 Church Street, Romsey SO51 8BT in accordance with the terms of the application, Ref 21/02189/FULLS, dated 16 August 2021, subject to the following conditions:
 1. The development hereby permitted shall be begun within three years from the date of this permission.
 2. The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans labelled Site location plan, block plan, existing floor plan, existing and proposed floor plan and parking layout.
 3. The development hereby approved shall be designed and built to meet Regulation 36 2(b) requirement of 110 litres/person/day water efficiency set out in part G2 of Building Regulations 2015.
 4. The development shall not be occupied until space has been laid out and provided for the parking and manoeuvring of vehicles in accordance with the parking plan submitted on 16th August 2021. This space shall thereafter be reserved for the occupiers of the dwelling at all times.

Preliminary Matters

2. The Council submits that the late evidence on the marketing of the appeal property should not be considered in this appeal. However, although the evidence was not submitted to the Council as part of the application, it has had the opportunity to consider the information during the appeal process. I do not consider that parties, including interested parties would be prejudiced by my consideration of this evidence. I have proceeded accordingly.
3. So that I could gauge the atmosphere of Romsey town centre during one of its busiest times for shopping, I undertook my site visit on a sunny Saturday

morning, which coincided with the presence of a busy local street market, which added considerably to the vibrancy of this highly attractive town centre.

Main Issues

4. The main issues in this appeal are whether the proposed change of use:
- would have an unacceptable deleterious effect on the viability and vitality of Romsey town centre shopping area, and
 - would preserve or enhance the character or appearance of the Romsey Conservation Area.

Reasons

The site, planning history and the proposal

5. The appeal site lies at the northern extremities of Romsey town centre and at the northernmost part of Church Street heading out from Market Place. The immediate area comprises a mix of residential, shops and commercial uses although on this side of the street at this location, the character retains its commercial nature. Notwithstanding, the parties agree that the site forming part of the town centre sits within the primary shopping frontage (PSF) as identified in the Test Valley Borough Revised Local Plan (TVBRLP). The National Planning Policy Framework (the Framework) seeks to apply a flexible approach in policy formulation that recognises the role that town centres play at the heart of local communities and taking a positive approach to their growth, management and adaptation. The emphasis is given to identifying the extent of town centres and making clear the range of uses that would be permitted within primary shopping centres.
6. In this regard, Policy LE12 in seeking to ensure that only town centre uses should be permitted within both primary and secondary shopping frontages is only partially consistent with the more flexible approach advocated within the Framework. In similar vein, this increased flexibility is also recognised in recent legislative changes as described in the Council's statement, which now groups retail and leisure uses under a single use class, Class E¹. The Council also points to the direction of travel in its Draft Local Plan 2040 Stage 1 Consultation that would advocate a more flexible approach; however, this is at a very early stage in the adoption process and cannot be given any weight in decision-making at this point in time. Further, although I note that the South of Romsey Town Centre masterplan may well move the axis of the town centre southwards and away from Church Street, the TVBRLP remains the development plan for the time being.
7. Nevertheless, as a PSF, the recent national guidance and legislative changes that introduce greater flexibility would not apply to proposals for residential uses. I agree with the Council that these factors alone would not be sufficient to justify the conflicts with Policy LE12.
8. The appellant seeks to argue that there are weighty material planning considerations that should form part of my assessment of this appeal and should persuade me to reach a decision other than in accordance with the development plan.

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

9. I note that the appeal property received planning permission in 2000 for change of use to a dwelling and during my access required site visit, I was able to observe that some 50% of the ground floor to the property had the vestiges of residential use, including a fully fitted kitchen, bathroom and reception room together with an outside patio area. However, whilst the arrangement of the internal space may be conducive to residential use, the external elevational treatment at ground floor is very much commercial and there is no dispute that the property has been in commercial use despite the 2000 permission.
10. While the Council also acknowledges that there may be policy changes afoot in terms of the direction of travel noted above and that the examining Inspector for the current 2015 Local Plan was not invited to address the extent of the town centre boundary or the extent of the PSF and therefore saw no reason to recommend changes to these designations, TVBRLP Policy LE12 remains extant as the basis for my consideration.
11. The appellant provides a detailed analysis of the density of retail and commercial uses within the town centre and particularly notes the greater concentrations of retail uses within the secondary shopping frontages along The Hundred by comparison with the area of Church Street that includes No33. This does not exactly echo my own observations during my site visit where I found that the nature of the eastern side of Church Street retains primarily a retail character despite not being as vibrant as other parts of the town centre, including The Hundreds. Residential uses do not predominate as suggested. That said, I acknowledge that the implementation of the South Romsey Town Centre Masterplan proposals that will involve a change to the axis of the town centre may further isolate this part of the town centre from the retail/commercial core.
12. The Council maintains that Romsey has managed to retain its role as a vibrant and successful town centre even during the recent economic downturn. I was able to corroborate this to some extent during my site visit, which suggested to me that the town has been able to weather the uncertain economic climate. I saw a bustling town centre with the main retail activity radiating from the Market Place. In walking along Church Street and spending some 50-60 minutes in the town, I noticed that footfall quickly dissipated and by the time I arrived at the appeal premises, I observed a mere handful of people walking towards No33 and those appeared not to be shoppers. Although this was a mere snapshot, it did coincide with an otherwise busy shopping period. My overriding sense was that the location of the appeal site is a peripheral location for shopping. Moreover, the shops/commercial properties that are located at this end of Church Street are interspersed primarily by residential properties and specialist/niche retailers and other commercial uses.
13. In order to test the attractiveness of No33 as a retail offer, the appellant commissioned a marketing exercise with the property advertised for a period of 6 months. Although the Council appears to criticise the veracity of the exercise undertaken, the appellant points to a similar proposal at 80 The Hundred, which is a secondary shopping frontage, where a similar marketing campaign was carried out with the Council concluding that the lack of interest would not deny an alternative policy compliant use coming forward. The appellant points out that this part of the town centre, despite being a secondary shopping frontage, is busier than the immediate area of No33. In terms of footfall, I would agree with this assertion.

14. Despite the Council's criticism, the marketing exercise lends support to my observations. The Council has not offered any contrary evidence or suggested how an exercise of this nature should be undertaken. However, it appears that the exercise sought to market the property for the full range of uses within Class E and, in this regard, must add to its credibility. It is clear from the exercise that the main interest from potential purchasers was for residential use. This supports my view that despite being within a PSF, this part of Church Street is a tertiary location for retailing with footfall diminishing at this point, which undoubtedly makes it difficult to entice Class E uses to invest here.
15. Given the outcome of the marketing exercise and for the reasons given above, whilst there is conflict with Policy LE12, I consider that there are other material considerations that need to be examined in the planning balance, which I turn to later in my decision.

Heritage impacts

16. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (LBCA) requires the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. In addition, Section 72 of the LBCA requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of a conservation area.
17. The 18th century appeal building comprising two storeys and attic with three hipped dormers forms part of a terrace group of three and incorporates deeply recessed sash windows at first floor over a traditional shop front with traditional fascia. There are no changes proposed to the external or internal fabric. Accordingly, the significance of the listed building would not be harmed.
18. The appeal building lies within the Romsey Conservation Area (RCA), which is a highly attractive quintessential historic market town set within and traditionally serving a wider rural hinterland. The significance derives from its historic layout, the high-quality traditional buildings within its core and the streets that radiate from its marketplace. Its narrow streets retain an almost medieval character with its marketplace and Norman Abbey precinct providing focal points that add considerably to its character. The buildings are generally of elegant form with some having an imposing appearance; collectively, the core area of shops and other commercial buildings make a positive contribution to the significance of RCA as a traditional market town.
19. The Council argues that the loss of retail use would seriously harm the character of the RCA. It argues that the development would fail to preserve or enhance such character through the undermining of the Conservation Area's primary function as a shopping centre. In particular, it believes that the character of this part of Church Street is that of a shopping street; the introduction of a residential use would, it is claimed, harmfully alter this character and result in a domestic appearance.
20. The manner in which the presence of a retail use reflects the overall character of the RCA would not in any way be diminished by the appeal proposal. The shopfront would remain. Given that the property has been used for residential use as well as commercial activity in recent times would mean the link to the

past would not be severed. As indicated elsewhere in my decision, footfall is already very low at this end of the PSF. Taking the Council's arguments about domestication of the appearance into consideration, I find that the insertion of curtains on the inside of the shop window would not undermine the character or appearance of the RCA. Simply, it would not constitute a reasonable or serious heritage argument against the appeal proposal.

21. Consequently, I find that the proposed change of use would at the very least preserve the character of the RCA and therefore would comply with Policy E9 of the TVBRLP which seeks, amongst other things, to protect heritage assets through sustaining the significance of heritage assets.

Other matters

Planning Obligation

22. In the event that planning permission for the appeal scheme was to be granted and implemented, the s106 Agreement would secure the payment of £10,900 for nitrates mitigation. The Council together with other public sector partners is party to the Roke Manor Farm Nitrate Credit Scheme, which has been established to reduce nitrates from agricultural practices from entering the River Test and ultimately the Solent. Pig farming at this location has ceased and a management plan has been adopted that would see the restoration of the land and its subsequent enhancement to promote ecological diversity.

Appropriate Assessment

23. Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended), as competent authority I am required to undertake an Appropriate Assessment of the appeal development on the basis of its likely significant effects firstly, on the Solent and Southampton Water SPA and Solent Maritime SAC through both recreation pressure and nitrates, secondly, on the New Forest SPA through recreational pressure and thirdly on the Mottisford Bats SPA.
24. Having regard to the submissions of Natural England and relevant planning policy, including the Integrated Water Management Study for South Hampshire, the Roke Manor Farm Nitrate Credit Scheme, the New Forest SPA Mitigation Interim Framework and The Bird Aware Solent Strategy, measures are proposed that would adequately mitigate the effects of the development both alone or in combination with other projects so that there would be no adverse effects upon the integrity of the SPAs or SACs cited above. Some of the measures include upfront financial contributions and a financial contribution included within the s106 Agreement. Natural England confirm that the mitigation proposed by the appellant would adequately mitigate potential effects.

Conditions

25. The Council has put forward suggested planning conditions in the event that the appeal be allowed. I have considered these in the light of Government guidance on the use of planning conditions. In addition to the standard time limit condition, a condition is necessary that specifies the approved drawings to provide certainty. To promote water efficiency, a condition is necessary to control water usage within the dwelling. A condition is also necessary that would provide off street parking arrangements to ensure highway safety.

Conclusion

26. I have found conflict with the development plan in terms of its location within the identified PSF. My own observations during my site visit were that despite its designation within the PSF, the appeal site is a peripheral location for shopping and this was demonstrated in the level of interest shown following the marketing of the property in 2022. In the absence of evidence to the contrary, I consider that the marketing exercise was adequate and demonstrated that there is little interest in the property continuing in commercial use. I found no harm to heritage assets and thus no policy conflict in terms of development plan policies that seek to protect such assets. Indeed, as a heritage asset, it would be desirable to see the appeal property occupied, which would also serve to increase population living in the town centre close to services. I consider that a vacant frontage would more negatively impact the vitality and viability of the town centre.
27. Given my findings, I conclude that the adverse impacts arising from the policy conflict would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole, which would mean that it would be sustainable development.
28. For the foregoing reasons, I conclude that the appeal should be allowed.

Gareth W Thomas

INSPECTOR