



Appeal Decision

Site visit made on 9 November 2023

by C Harding BA (Hons) PGCert PGDip MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2023

Appeal Ref: APP/A2525/W/23/3316411

75 Church Street, Pinchbeck, Spalding PE11 3YA

- 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 Nilesh Odera against the decision of South Holland District Council.
 - The application Ref H14-0983-22, dated 6 October 2022, was refused by notice dated 31 January 2023.
 - The development proposed is described on the application form as "conversion of existing building to provide a local convenience store, to include; new front elevation design, shutters, signage, totem signage, condensing units, extension of opening hours and associated external area upgrades."
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Decision

1. The appeal is dismissed.

Applications for costs

2. An application for costs has been made by Mr Nilesh Odera against South Holland District Council. This will be subject to a separate decision.

Preliminary Matters

3. The description of the proposal includes reference to signage and a totem sign. The display of advertisements is regulated through the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and therefore falls outside of the scope of this appeal.
4. It is a matter of dispute between the main parties as to whether the proposal includes the change of use of the appeal site. I understand, and it does not appear to be disputed, that the site was previously in Class E use as a bathroom showroom. However, the use has now ceased, and the building was unoccupied at the time of my site visit.
5. The description of development from the planning application form clearly states that the proposal includes, amongst other works, the "conversion of existing building to provide a local convenience store". Whilst the appellant has clarified that this reference related only to physical works to enable the conversion, as opposed to any reference to the change of use of the building, this is not made clear within the description. It is indicated on the application form that no new floorspace would be created, however the description of the proposal also refers to the extension of existing opening hours. Taken as a whole, the application form is not entirely clear.

6. Ultimately, it is not within my remit to consider whether or not the use of the building as a convenience store would constitute a change of use, or require planning permission, and even though there appears to be some agreement between the main parties that such a use could be lawful without planning permission, there is no substantive evidence before me in the form of a certificate of lawful use issued under sections 191 or 192 of the Town and Country Planning Act 1990 which would confirm this fact.
7. Therefore, having regard to the above, and taking the provided description at face value, I have considered the appeal on the basis that it does include the change of use of the appeal site, regardless of whether or not this would comprise development or require planning permission.

Main Issues

8. The main issues are:

- the effect of the proposal upon highway safety, and;
- whether the appeal site is an appropriate location for the development having regard to the local retail strategy.

Reasons

Highway Safety

9. The appeal site is located on Church Street, which is a principal route through Pinchbeck. The building on the appeal site is set back from the road, with an area of hardstanding to its front. A large, fenced yard area is situated to the rear of the building, accessed by a narrow road to the side of the building. A pelican crossing on Church Street is located nearby, with associated zigzag markings on the carriageway extending across the frontage of the appeal site.
10. A bus stop is located on the opposite side of the road. Interested parties have indicated that buses also pick-up and set-down on the pavement close to the appeal site frontage. Close to the marked bus stop opposite the appeal site is a lay-by capable of providing on-street parking for several vehicles. Otherwise, junctions and residential driveways, along with the zigzag markings of the pelican crossing restrict opportunities for on-street parking in the immediate locality.
11. South East Lincolnshire Local Plan (SELLP) Policy 36 states that all new development should provide vehicle and car parking in accordance with the minimum parking standards adopted by the local planning authorities and that parking spaces are fit for their intended use in terms of size and design. Appendix 6 of the SELLP sets out parking standards for various forms of development, and states that for a retail development of the scale proposed, that it is expected that spaces be provided on the basis of a single space per 14 square metres of floorspace. Accordingly, it would be expected that the proposed retail unit would provide a minimum of 6 car parking spaces for customer use.
12. The area to the front of the appeal site would be able to provide some customer parking. The Council considers that this area could provide parking for three vehicles. There is no substantive evidence or plans before me in terms of parking layout or operation, other than an indication on the provided visuals, from which it is difficult to assess the size or specification of the spaces

indicated. Taking all of this into account, I consider that this area of hardstanding would be unlikely to provide the 6 spaces that would be required whilst allowing for safe manoeuvring and entry or exit. Without being formally and appropriately laid out, I consider that it is likely this area would be used in an ad-hoc manner.

13. It is suggested that further parking space could be provided to the rear of the appeal site within the existing compound, however this is also not detailed within the evidence, or on the provided plans, and the narrow access road to this area, which appears to be shared with residential properties, would not allow traffic to flow in both directions. This would lead to vehicles queuing to either enter or exit the rear car park at busy times.
14. As acknowledged by the Highway Authority, it is possible that on-street parking would be available at the layby on the opposite side of the road, and the pelican crossing would mean that this would be a relatively safe and convenient alternative option. However, unlike the Highway Authority, I consider that it would not prevent parking, or attempts to park, on the area to the front of the appeal site, particularly if this area was not formally or appropriately laid out for parking purposes and was used on an ad-hoc basis.
15. Furthermore, this would be an area with a high probability of pedestrian and vehicle conflict, with customers either accessing the proposed shop on foot, or pedestrians making use of the adjacent footway, waiting at the pelican crossing or for a bus. In combination with vehicles manoeuvring within the area of hardstanding and also with vehicles potentially queuing to access the additional area to the rear of the shop, and with deliveries to the premises also requiring accommodation, I consider that the overall situation, without adequate management would be likely to lead to harm to highway safety.
16. I therefore conclude on this main issue that the proposal would be likely to be harmful to highway safety. It would therefore conflict with SELLP Policy 36 and SELLP Appendix 6 which together, and amongst other factors, require new development to provide a minimum level of onsite parking and that parking spaces are fit for their intended use in terms of size and design.

Appropriate location

17. SELLP Policy 27 (b) states that whilst there was no qualitative need for additional convenience goods floor space in the Local Plan area prior to 2021, that a need of additional 3,365sqm is expected by 2031. The policy expects this provision to be met by small-scale units of up to 500sqm either within a new Local Centre to serve a Sustainable Urban Extension, or to provide for an underserved area.
18. There is no substantive evidence before me in relation to either current levels of floorspace provision or any other approved retail outlets. It has not been argued that the appeal site lies within a Sustainable Urban Extension, or that it is situated within an underserved area. In the latter regard I saw on my site visit that another convenience retailer is located within a short distance of the appeal site. The appeal proposal would not, therefore, benefit from support from this part of SELLP Policy 27.
19. However, SELLP Policy 27 (c) also makes provision for new shops to meet the day-to-day needs of nearby residents, limited to a maximum of 100sqm of floorspace and where such shops would be accessible without the need to use a

car. The appeal proposal would fall within this threshold and would be located within a built-up area. Accordingly, it would be accessible without the need to use a car.

20. Whilst SELLP Policy 27 is a single policy, the fact that the proposal would fail to meet the criteria of SELLP Policy 27 (b), does not mean that it would fail to accord with the policy as a whole. The inclusion of SELLP Policy 27 (c) specifically provides scope for the creation of small convenience stores such as that proposed here.
21. Therefore, I conclude with regard to this main issue that the appeal site would be an appropriate location for the development having regard to the local retail strategy. It would accord with the provisions of SELLP Policy 27, the requirements of which I have set out above.

Other Matters

22. As set out in my preliminary matters, I have considered the appeal on the basis that the proposal includes the conversion of the existing building. It has been suggested that this would not require planning permission, and I accept that there are circumstances where this could form a fallback position. However, as the lawfulness of the proposed use of the building has not been established through an application for a certificate of lawful use under Sections 191 or 192 of the Town and Country Planning Act 1990, it is a position to which I afford only very limited weight in this case.
23. The site is located within Pinchbeck Conservation Area. There is no dispute between the main parties as to whether the proposed development would preserve or enhance the character or appearance of the Conservation Area. I have no reason to find that the appeal proposal would harm the significance of this designated heritage asset, and as I am dismissing the appeal for other reasons, no harm in this regard could arise from my decision.
24. A number of representations were received from interested parties, including Pinchbeck Parish Council, raising concerns with the proposal on a number of grounds. However, as I am dismissing the appeal in any event, these parties would not be prejudiced by my decision, and it is not necessary for me to pursue the additional matters raised any further.

Conclusion

25. Although I have found that the appeal proposal would be in an appropriate location having regard to the local retail strategy, it would nevertheless be harmful to highway safety. It would conflict with the development plan as a whole.
26. Section 38(6) of the Planning and Compulsory Purchase Act states that a decision must be taken in accordance with the development plan, unless material considerations indicate otherwise. There are no other considerations, including the National Planning Policy Framework, that would outweigh the harm and conflict with the development plan that I have identified.
27. For the reasons given above I conclude that the appeal should be dismissed.

C Harding

INSPECTOR