



Appeal Decision

Site visit made on 25 October 2023

by S Pearce BA(Hons) MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th January 2024

Appeal Ref: APP/F2415/W/23/3315665

13 Stretton Court, Stretton Road, Great Glen LE8 9HB

- 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 Mehdi Haghshenass against the decision of Harborough District Council.
 - The application Ref 22/00670/FUL, dated 6 March 2022, was refused by notice dated 22 August 2022.
 - The development proposed is described as the “plan to obtain change of use from barber shop A1 to take away”.
-

Decision

1. The appeal is allowed, and planning permission is granted for change of use from barber shop to take away at 13 Stretton Court, Stretton Road, Leicester, LE8 9HB in accordance with the terms of the application, Ref 22/00670/FUL, dated 6 March 2022, and the plans submitted with it, subject to the conditions in the attached schedule.

Preliminary Matters

2. The existing use of the premises is a barber’s shop. The description of development on the planning application form refers to this use falling within Use Class A1. Following changes to the Use Classes Order in 2020, the existing use, for clarity, now falls within Use Class E. In view of this, I have removed reference to Use Class A1 in my decision above.
3. Since the determination of this application, a revised National Planning Policy Framework (the Framework) was published on 19 December 2023 and updated on 20 December 2023. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I consider that there is no requirement for me to seek further submissions on the revised Framework, and I am satisfied that no party’s interests have been prejudiced by my taking this approach.

Main Issue

4. The main issue is the effect of the proposed use upon the viability of Great Glen as a designated Local Centre.

Reasons

5. Great Glen is designated a Local Centre by Policy RT2 of the Harborough Local Plan Adopted April 2019 (LP). This policy seeks to maintain and enhance the vitality and viability of the retail hierarchy of city, town, district and local centres. With regard to Local Centres, proposals for shopping and business

uses will be permitted provided they do not detract from the character of the area. While the supporting text to this policy states such centres would typically include shops, a small supermarket, a sub-post office and a pharmacy, it also highlights that other facilities could also include, for example, hot food takeaways.

6. The appeal site is a ground floor unit, located within a small parade of five units. In addition to these units, the immediate area is served by other uses, including a Post Office and Co-Operative store.
7. LP Policy HC3 states, among other things, that development involving the loss of an existing public house, post office or village shop selling primarily convenience goods will be permitted subject to two criteria. Criteria a) requires reasonable efforts to have been made to preserve the facility, and criteria b) requires the public house, post office or village shop to have been proactively marketed at a reasonable price for a minimum of 12 months for its current use.
8. Policy GG9 of the Great Glen Neighbourhood Plan Review Referendum Version Made January 2020 (NP) states, among other things, that development proposals that result in the loss of an existing shopping use will not be supported unless it can be demonstrated that its continued use for shopping is no longer viable. The supporting text to this policy advises, among other things, that the current provision of shops is adequate but limited, but any further reductions in shopping provision would seriously affect the viability and vitality of shopping in the Parish.
9. The Council assert that both LP Policy HC3 and NP Policy GG9 seek to protect current retail and shop uses from changes of use away from potential shopping uses. LP Policy HC3 explicitly lists those uses which it seeks to protect. While NP Policy GG9 seeks to protect existing shopping uses, the previous Use Class A1 is now incorporated within the more widely defined Use Class E, which thereby allows for an even wider range of changes of use without the need for planning permission. The effect of Use Class E also distinguishes a hairdressing use, which includes a barber's shop, from that of a shop.
10. Although noting the appeal site could operate within a wide range of shopping, commercial and business uses as listed within Use Class E, without requiring a change of use planning application, its current use is a barber's shop. Consequently, the current use of the premises does not fall within any of the uses expressly listed within LP Policy H3, nor does it comprise a shopping use as required by NP Policy GG9. Moreover, neither policy requires evidence to demonstrate the full permitted range of uses within Use Class E are no longer viable. Therefore, the application of these policies does not preclude the principle of the proposed use.
11. There are residential properties and other businesses close to the appeal site, including residential units above the commercial properties along Stretton Court. The Council is satisfied that the proximity of the proposed use to these residential properties and businesses is acceptable. Following my site visit, I see no reason to disagree, subject to planning conditions to ensure appropriate fume extraction facilities and opening hours of the premises.
12. With regard to noise and opening hours, the Council have highlighted that the premises is not restricted in terms of an opening hours condition. The premises could therefore operate within a wide range of uses within Use Class E, all

unrestricted in respect of opening hours. There is little substantive evidence which demonstrates the proposed opening hours, and associated activities, would be more harmful to neighbouring properties than operations that could take place within the existing use of the premises within Use Class E. It is necessary, however, to restrict the opening hours of the proposed use, in order to protect the living conditions of neighbouring occupiers from potential disturbance of late-night comings and goings, which are typically associated with hot food takeaways.

13. No external alterations are proposed, although the siting of the external extraction would need to be carefully considered. The Council consider it could be discreetly located to the rear of the premises and, having regard to the layout of the parade in which the appeal site is located and surrounding development, I see no reason to disagree. A condition requiring details of external extraction would also enable its location to be agreed.
14. For these reasons, I conclude the proposed use would maintain the viability of Great Glen as a Local Centre, in accordance with LP Policy RT2, as outlined above.

Other matters

15. Third parties have raised concerns in respect of parking and traffic congestion. While the Highway Authority acknowledge that the proposal is likely to result in vehicular intensification, they raise no objections to the proposal, on the basis that the site is located in a town centre location, close to a car park and the intensification is likely to be outside of the network peak hours. In addition, there is little substantive evidence to show that highway safety is an issue in this location. Given the scale of the proposed development, its location and hours of operation, it would be unlikely that the proposal would result in unacceptable levels of on-street parking in the vicinity or traffic congestion. Therefore, I am satisfied the proposal would not harm highway safety.
16. There are third party concerns with regards to an increase in litter as a result of the proposal. A condition requiring details of the management of litter and waste arising from the proposed use would help ensure there is no material increase in litter or waste and the living conditions of nearby residents are not significantly adversely affected.
17. In response to the Council's representation, this decision relates solely to the change of use of the premises and to the necessary works identified therein. Any other matters, including the display of signage, may be subject to other separate controls.

Conditions

18. The Council have not suggested conditions in respect of the proposed development. I have had regard to the statutory tests outlined in the Framework and the advice in the Planning Practice Guidance. For the avoidance of doubt, development needs to be carried out in accordance with the statutory time limit and approved plans.
19. Conditions relating to the provision of external extraction, opening hours, litter and waste would be necessary in order to fulfil the requirements of LP Policy GD8 and the NP, which seek to ensure developments achieve a high standard of design and do not have a significant adverse effect on the living conditions

of existing residents through odour emission, litter and waste. Due to the sensitivity of the site in respect of its proximity to residential properties, matters conditions relating to external extraction and litter and waste need to be resolved prior to the use commencing.

Conclusion

20. Given my findings above, the proposal accords with the development plan when taken as a whole. There are no other material considerations, including the Framework, that indicate that the development should be determined otherwise than in accordance with the development plan. For the reasons given, I conclude that the appeal should be allowed.

S Pearce

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin no later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Location Plan and Proposed Internal Layout.
- 3) Before the use hereby permitted takes place, equipment to control the emission of fumes and smell from the premises shall be installed in accordance with a scheme to be first submitted to and approved in writing by the local planning authority. All equipment installed as part of the approved scheme shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues.
- 4) The use hereby permitted shall only take place between the following hours:

1100 - 2200 Mondays - Saturdays
1100 - 2100 Sundays and Bank or Public Holidays
- 5) Before the use hereby permitted takes place, a full and detailed scheme of measures for the management of litter and waste arising from the proposed use shall be submitted to and approved in writing by the Local Planning Authority. The details as approved shall be implemented prior to the first use, and thereafter retained.