



Appeal Decision

Site visit made on 29 May 2024

by E Grierson BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Appeal Ref: APP/Z1510/W/23/3327920

The Old Bank, 63 High Street, Kelvedon, Colchester CO5 9AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Julia MacKay Properties against the decision of Braintree District Council.
 - The application Ref is 23/01065/FUL.
 - The development proposed is the change of use to a single dwelling house.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use to a single dwelling house at The Old Bank, 63 High Street, Kelvedon, Colchester CO5 9AE in accordance with the terms of the application, Ref 23/01065/FUL, and the plans submitted with it, subject to the following conditions:
 - 1) The development hereby permitted shall begin not 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: 0301_SS_00, 0301_GA_00.PDA and 0301_GE_00.
 - 3) Prior to first occupation of the development hereby approved details of the location and design of a refuse bin and recycling materials storage areas (for internal and external separation) shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details and thereafter so retained.
 - 4) The development shall not be occupied until the developer provides a Residential Travel Information Pack (to include six one-day vouchers for use with the relevant local public transport operator) for each dwelling, promoting the use of sustainable transport, details of which shall be submitted to and approved in writing by the Local Planning Authority.

Preliminary Matters

2. The appellant has submitted further information with this appeal in relation to the marketing of the property. This information was not considered by the Council in their determination of the planning application. While the appeal process should not be used to evolve a scheme, the information submitted does not alter the development proposed and the Council and any interested parties have had a chance to comment on this information as part of the appeal. Therefore, they would not be prejudiced by my acceptance of the new information. Thus, I have considered the appeal on this basis.

Main Issue

3. The main issue is the impact of the proposed development on the provision of commercial floorspace within the Local Centre of Kelvedon.

Reasons

4. The appeal site is occupied by a two-storey detached building which is currently being used as office space on the first floor and a kitchen showroom on the ground floor. It is located on the main road within Kelvedon, High Street, and is surrounded by a variety of residential and commercial properties. It is also located within Kelvedon Conservation Area, a designated heritage asset, and a within a Local Centre.
5. Policy BR5 of the Kelvedon Neighbourhood Plan 2022 (the NP) seeks to ensure that proposals for the change of use of business premises in use classes E are supported by evidence that satisfactorily demonstrates that either the continued operation of a business or service is no longer financially viable and the premises has been appropriately marketing for at least 12 months at a reasonable market rate, or there is no longer a need for the facility or a suitable replacement has been provided in a suitably convenient location elsewhere.
6. Whilst the appellant submits that the proposal would result in the loss of commercial floorspace they have submitted various evidence to demonstrate the limited demand for business premises within Kelvedon. This includes two reports for another site in Kelvedon which establishes a lack of demand for office space in the area due to the village location and the increase in working from home. They have also provided a review of other commercial premises within Kelvedon which are now vacant to demonstrate that commercial space within the area is not limited. Finally, a marketing report for the appeal property demonstrates some leasehold and freehold interest but no formal offers over six months, highlighting an absence of dedicated off-road car parking and a dated internal layout.
7. The information provided by the appellant indicates that the appeal property has only been marketed from 11 August 2023. Therefore, it has not be marketed for at least 12 months as required by the first stipulation in policy BR5. However, the information provided by the appellant, outlined above, satisfactorily demonstrates that there is no longer a need for the facility as commercial floorspace within Kelvedon is not limited and take up does not appear to be forthcoming due to restrictions on the site. Therefore, the proposal would comply with the second stipulation in policy BR5 and as such the policy overall.
8. Policy LPP9 of the Braintree District Local Plan 2013-2033 (the LP) states that Local Centres will be protected from inappropriate development and enhanced to provide small-scale shops, services and community facilities for local residents. The preamble of this policy also states that impact assessments will be required for development which affect identified town, district and local centres. However, this is not in the actual policy wording.
9. A specific impact assessment has not be provided by the appellant as part of the planning application or this appeal. Nevertheless, there is no reason to suggest that the proposal is inappropriate development or would conflict in any

way with Policy LPP9. Therefore, an impact assessment, in this instance, is not deemed necessary.

10. Therefore, whilst it would result in a loss of commercial floorspace, due to the limitations of the site and the lack of demand in the area, the proposed development would not have a harmful impact on the provision of commercial floorspace within the Local Centre of Kelvedon. As such, it would not conflict with Policy LPP9 of the LP or Policy BR5 of the NP as outlined above.

Other Matters

11. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of a Conservation Area. From my observations on site, it would appear that the significance of the Conservation Area relates, in part, to its historic nature centred around the High Street and the buildings within it. The Old Bank forms part of the historic environment of the area and, as a large, detached property, is a relatively prominent feature in the streetscene. As such, it makes a positive contribution to the significance of the Conservation Area as a whole.
12. Whilst it would change the use of the building along with its interior layout, the proposed development would not alter the external appearance of the building. Therefore, its relationship with the Conservation Area as a whole would remain unchanged. As such, the proposed development would have a neutral impact on the character and appearance of the Kelvedon Conservation Area and would not harm the significance of this designated heritage asset.

Conditions

13. In addition to the standard time period for commencement of the development, I have attached a condition requiring the development to accord with the approved plans, as this provides certainty and precision.
14. The Council have requested conditions in relation to the details of a refuse bin and recycling materials storage area and the provision of a residential travel information pack. These have been included as I consider them necessary to ensure that the development is suitable for residential use, particularly due to the lack of space to the front or side of the building for car parking or the storage of refuse bins.
15. The Council have also requested that a condition is included to remove permitted development rights in relation to the future enlargement of the building permitted by Class A, AA, B, D and E of Part 1, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015. Paragraph 54 of the Framework advises conditions should not be used to restrict national permitted development rights unless there is clear justification to do so. The Council indicate that such a condition is in the interests of residential and visual amenity. However, due to the location of the appeal site within a Conservation Area, permitted development rights would already be somewhat restricted and I do not consider that further restricting them is necessary to make the proposed change of use acceptable. Therefore, this condition has not been included.

Conclusion

16. For the reasons set out above, the appeal is allowed.

E Grierson

INSPECTOR