



Appeal Decision

Site visit made on 6 August 2024

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 August 2024

Appeal Ref: APP/P1133/W/24/3342624

Knighton Stores and Post Office, Road From Knighton Heath To The Red House, Chudleigh Knighton, Chudleigh, Devon TQ13 0ES

- 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 Mr J Head against the decision of Teignbridge District Council.
 - The application Ref is 23/00829/FUL.
 - The development proposed is Change of use of ground floor of premises from retail shop to two residential flats.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - Whether the proposed development would comply with local and national planning policies which seek to protect existing local community facilities, and
 - Whether the development would provide adequate living conditions for future occupants of the flats with particular reference to internal living space, outlook and privacy.

Reasons

Effect on community facilities

3. The appeal site is located in the centre of the village on the main road through it. The adjoining property is a hair and beauty salon and the village hall is diagonally opposite. A pub, school and church are close by.
4. It is stated that the premises closed due to the business becoming no longer commercially viable and has been vacant for nearly 2 years during which time there has been no interest from potential occupiers. From the evidence before me, there is no other means in the village for the community to meet its day to day shopping needs.
5. The evidence includes a letter dated 7 April 2024 from the last tenant of the shop which explains the challenges encountered in maintaining a viable business there. This includes lack of support from the village community, competition from home deliveries and lack of parking. Teignbridge Local Plan 2013-2033 (TLP) Policy WE12 states that the loss of retail facilities will not be permitted unless one of four criteria are met. Criterion d) is that it should be

demonstrated that the use is no longer necessary or viable in the long term. Although the letter explains the viability issues previously encountered, the evidence does not demonstrate that a retail use is not viable in the long term. I have not been provided with any accounts, financial or other evidence relating to the business to demonstrate that long term viability cannot be achieved. Whilst the appellant indicates that there has been no interest in the premises, nor have I been provided with evidence of the marketing that has taken place. On this basis, I cannot conclude that the use is not viable in the long term. Whilst shopping habits have changed over time, for example through an increase in internet and supermarket shopping, and the A38 reducing the amount of through traffic, this does not in itself demonstrate that there is no long term alternative viable community use.

6. The National Planning Policy Framework (the Framework) indicates that planning decisions should enable the retention of local shops and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Although the April 2024 letter suggests the shop was not supported by the village community, there is no clear evidence to demonstrate that it was not a valued facility nevertheless or that it was no longer necessary.
7. Regarding the other criteria in WE12, I have not seen evidence to suggest there is sufficient choice of retail provision in the local area. Although on street parking is relatively limited near the site, nor is there evidence that the retail use causes a significant problem which can only be resolved by it relocating. The provision of 2 flats would provide some limited additional housing in the village where it is suggested that small units may be in demand. The benefit of the flats is limited however because of their poor quality and would not outweigh the loss of the retail provision.
8. As a consequence, for the reasons given, the proposals would not comply with local and national planning policies which seek to protect existing community facilities. This conflicts with TLP policy WE12 regarding the loss of facilities and the policies in the Framework which promote healthy and safe communities.

Living conditions

9. During my site visit I viewed the interior of the property. The partitioning of the shop space to achieve the proposed layouts means both flats would have only small living and bedroom spaces and would feel cramped. Flat 2 in particular would have a very restricted kitchen/living area and small, windowless bedroom. Whilst reference has been made to the Nationally Described Space Standards (NDSS), they are not referenced in any TLP policy drawn to my attention. With this in mind, while the NDSS may provide a useful indication of what would constitute a reasonable size for the internal space within a new dwelling, it is not a policy requirement. Nevertheless, using the standards as guidance only, the gross internal floor area for each flat as stated in the Council's Delegated Report falls beneath the relevant standards. These calculations have not been challenged by the Appellant and, even though the NDSS do not form part of the development plan and are indicative only, they support my own assessment of the inadequacy of the flats.
10. The proposed window in the bedroom in flat 1 would face into the small yard which is proposed to accommodate bin and cycle stores for the flats. The occupants of the neighbouring flat would have to go close to this window to use

the stores. Even allowing for possible future curtains or blinds, this would impinge on the privacy of the occupiers of flat 1 as it would be unreasonable to expect curtains or blinds to be kept closed.

11. The storage area and the two storey side wall of the adjoining property would dominate the outlook from the bedroom. The height and position of the wall on the south eastern side of the yard would limit the light reaching the window and have an overbearing effect on it. Even though the flat's principal living space has its outlook towards the street at the front of the property, the effect on the outlook from the proposed bedroom window would still harm the living conditions of the future occupiers of flat 1.
12. The proposed window in the side elevation of flat 2 would be a half height window serving the living area adjacent to the door into the flat. It would face towards the door to the neighbouring salon above which is a balcony. The balcony is close to, and in an elevated position opposite, the proposed window and as a result users of the balcony would have the opportunity to look into the proposed window which serves a living space. This would result in a loss of privacy to the future occupants of flat 2.
13. I have given consideration to whether appropriately worded conditions could be used to prevent the harm to living conditions which I have identified. The proposed bedroom window in flat 1 is the only window in that room, and whilst a condition requiring the provision of obscure glazing might prevent a loss of privacy, it would not significantly improve the outlook. Nor would it be reasonable to restrict the sole window in a habitable room in such a way. However, as the window in flat 2 serves a general living area, which also has another window fronting the street, I am satisfied that if I were minded to allow the appeal, a condition requiring the provision of obscure glazing to that window would be reasonable to prevent the loss of privacy.
14. Nevertheless, for the reasons given, the proposals would not provide adequate living conditions for future occupants of the flats which conflicts with TLP policy S1 which seeks to protect the residential amenity of dwellings. There would also be conflict with the Framework which seeks to achieve well designed places with a high standard of amenity for existing and future users.

Other Matters

15. The Council's Delegated Report refers to the nearby Grade II* listed St Paul's church. Section 66 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the decision maker, in considering whether to grant planning permission for development which affects a listed building or its setting, must 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. I have assessed the impact of the proposals on the setting of the church and have no reason to come to a different conclusion to the Council that the proposals would preserve the setting of the listed building and would not harm its significance.
16. Whilst no objections were received to the principle of the proposals from Hennock Parish Council or the Highway Authority, for the reasons outlined above, the proposals would cause clear harm which gives rise to the conflict with the development plan.

Conclusion

17. The proposal conflicts with the development plan and the material considerations do not indicate that the appeal should be decided other than in accordance with it. For the reasons given above the appeal should be dismissed.

R Kent

INSPECTOR