

Appeal Decisions

Site visit made on 21 May 2024

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 September 2024

Appeal A Ref: APP/J3720/W/23/3334286

Old Post Cottage, High Street, Lower Brailes, Brailes, Warwickshire

OX15 5HN

- 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 Mrs M Blake against the decision of Stratford-on-Avon District Council.
 - The application Ref is 22/03011/FUL.
 - The development was originally described as "Change of use from former post office and village shop to residential use."
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Appeal B Ref: APP/J3720/Y/23/3334288

Old Post Cottage, High Street, Lower Brailes, Brailes, Warwickshire

OX15 5HN

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) against a refusal to grant listed building consent.
 - The appeal is made by Mrs M Blake against the decision of Stratford-on-Avon District Council.
 - The application Ref is 22/03012/LBC.
The works were originally described as "Change of use from former post office and village shop to residential use".
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Decisions

1. Appeal A is allowed and planning permission is granted for Change of use from former post office and village shop to residential use at Old Post Cottage, High Street, Lower Brailes, Brailes, Warwickshire OX15 5HN in accordance with the terms of the application Ref 22/03011/FUL.
2. Appeal B is dismissed.

Applications for costs

3. Applications for costs were made by Mrs M Blake against Stratford-on-Avon District Council. These applications are the subject of a separate Decision.

Preliminary Matters

4. The two appeals concern the same scheme under different, complementary legislation. I have therefore dealt with both appeals together in my reasoning to avoid unnecessary duplication.
5. A revised version of the National Planning Policy Framework (the Framework) was published in December 2023. However, as any policies in the Framework that are material to these decisions have not fundamentally changed, apart from some paragraph numbering, I am satisfied that neither party would be prejudiced by my consideration of the revised Framework in reaching my decisions.
6. As the proposal relates to a listed building which is located within a conservation area, I have had special regard to sections 16(2) and 66(1) and paid special attention to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).
7. The submitted plans show the former shop (annotated as 'office' on drawing no.22-52-03) now as an open-plan kitchen/dining room on drawing 20-52-12. On my visit I saw that works have already been undertaken and the ground floor room of the former post office and shop is already in use as a kitchen/dining room and a log burner and shelves have been installed. Hence the applications are retrospective and seek to regularise the change of use and to authorise the associated works to the listed building that have been undertaken. I have dealt with the appeals on their merits based on the submitted plans.
8. Clarification has also been sought as to the exact nature and extent of the proposed internal works to the listed building. These will be discussed later.

Background

9. The host property is located in the High Street in the centre of the village of Lower Brailes. It forms part of a terrace of buildings, with dwellings one side and the George Hotel the other. The front room was converted to a shop and post office during the late 19th or early 20th century.
10. In 1992 the appellant moved to the property with her late husband to run the Post office and village general store, which had residential accommodation adjoining and above. The Post Office and shop were operated from a ground floor room and the two shopfront bay windows and shop door in between them remain. The Post Office withdrew its services from the branch in about 2009, but the appellant and her husband continued to run the shop until 2019, when they ceased trading due to ill health. Since her husband died, the appellant has continued to live in the property.

Main Issues

11. The main issue in Appeal A is whether there would be compliance with local and national policies that seek to protect existing community facilities.
12. The main issue in Appeal B is whether the works preserve the Grade II listed building known as 'Brailes Post Office and Old Post Office Cottage' or any features of special architectural or historic interest which it possesses.

Community facilities

13. Brailes is a category 2 local service village. The appeal site lies in the centre of the village within its built up area boundary. The change of use to a wholly residential unit would see the loss of a village shop, which is a community facility and employment opportunity.
14. Policy CS.20 of the Stratford-on-Avon Core Strategy 2011-2031 (the Core Strategy) will support the subdivision or conversion of buildings to residential use. Core Strategy Policy AS.10 also supports conversions of buildings to residential use that are located within the physical confines of a village. Therefore, the change of use of the retail part of the building to residential to make a wholly residential property is policy compliant in this regard.
15. However, both policies require the loss of a community facility and its conversion to residential, or a non-employment use, to be assessed against Core Strategy Policies CS.22 (Employment uses), CS.23 (Retail uses) and CS.25 (Community uses). In addition, Policy SE1 of the Brailes Neighbourhood Development Plan (the Neighbourhood Plan) will not support proposals for the change of use or redevelopment of premises currently in use as shops unless various criteria are met.
16. There is some overlap between these policies, but they all require the proposal to be assessed against a number of similar criteria and various 'development management' considerations. However, there is no requirement for a proposal to comply with all criteria in each policy, and the onus is on the appellant to undertake a 'rigorous' assessment of commercial need. These policies are broadly consistent with the Framework, which endeavours to support a prosperous rural economy and states that planning decisions should enable the retention and development of accessible local services and community facilities, such as local shops.
17. In the main, the criteria and considerations of the above policies broadly require assessment of whether there is a realistic prospect of a continuing commercial and/or operational activity; whether the site is allocated for employment; the long-term supply of comparable employment sites; whether there is sufficient demand for the land; whether the site is no longer practical or suitable for the use; that marketing has taken place or the site otherwise made available; and whether the facility can be provided in an alternative manner or on a different site in accordance with the wishes of the local community.
18. The site is not an allocated employment site. Before it closed, the shop had one full time employee (the appellant's husband) with some part-time assistance, making a total of 1.33 full time equivalent employees. Hence the business operating from a part of the building was not a significant employer or job creator in the village or area.
19. The retail/commercial use runs with the land and does not automatically cease just because the business has stopped trading. The premises has not been actively marketed for employment/commercial use because the appellant does not want to start up the business again – instead they want to continue living in the property where they have lived since moving to the village in 1992. In light of this, I share the Council's view that a marketing

exercise would be destined to fail and that a more pragmatic approach would be confirmation about the retail/commercial prospects of the unit from professionals experienced in retail sales and lettings. Consequently, the appellant submitted a letter with their application from a commercial expert¹, although the Council was expecting submissions from a number of experts.

20. When the Post Office withdrew its services almost 15 years ago, the convenience store remained. I saw that the village is not without other services/facilities. There is a small row of shops further along the High Street that provide a butchers, a newsagents and a bakery/delicatessen, although I have not been provided with details about when these started trading. As a result, the commercial expert contends that most other amenities that would be frequently found within a convenience store are already currently available elsewhere in the village and to open and continue a convenience retail operation at the host property would likely be economically unviable.
21. The commercial expert also makes reference to advanced technology and retail practices which would now make the premises functionally and technically obsolete. The potential future commercial operations of the premises would be limited due to a number of factors, such as the modular internal space that is not conducive to modern retailing, together with the lack of staff facilities, storage and a limited retail floor space. Changes in shopping habits such as the opening of a supermarket in nearby Shipston-on-Stour and online shopping may also play a role, although I note these do not appear to have prevented the aforementioned other shops from trading in the village, but may have been contributing factors that led to the Post Office withdrawing their services some years ago.
22. I am advised that the convenience store at the host property only continued trading for as long as it did because the shop income was supplemented by the appellant's own job elsewhere. Whilst the premises may no longer be suitable for a convenience store with the modern requirements for, inter alia refrigeration units, this does not render it wholly unsuitable for other retail businesses of a less conventional nature. I am not persuaded by the commercial expert's assertion that a lack of dedicated parking for the premises would deter customers and affect trade. There are no traffic restrictions on High Street, and I saw there was on-street parking available directly outside the premises and along High Street. This would be adequate for the size and scale of the retail premises.
23. Nonetheless, the fact remains that the appellant has no intention to operate a shop again from the premises, or indeed let the limited retail floorspace within the building as a separate retail or commercial business to someone else. Hence the retail floorspace within the building could remain unused indefinitely, unless change of use to residential was allowed.
24. The policy criteria also require consideration of whether the facilities/services can be effectively provided on a different site in accordance with the wishes of the local community. The Council asked the appellant to undertake a survey of local residents to establish if they are satisfied with the alternative retail provision in Brailles. This was not done.

¹ From Sheldon Bosley Knight Land and Property Professionals dated 4 October 2022

25. Paragraph 97 of the Framework states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should, amongst other things, 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. It goes on to state that decisions should ensure that established shops, facilities and services are able to develop and modernise and are retained for the benefit of the community.
26. There is no definition of 'valued' facilities or services, or how to measure their value, in either the Framework or the Council's development plan. The Parish Council has objected to the proposal as it is keen to ensure the village's amenities do not dwindle to the detriment of residents (citing their previous concerns in relation to an application for The Gate Inn). However, it is clear from the submitted evidence that there are no representations from local residents, either to resist or support the proposal and the appeal. This might suggest that the local community is silent, ambivalent or at least not in uproar about the loss of the shop or that the other retail provision in the village is inadequate.
27. The shop has been closed since 2019 and the Post Office closed some 10 years before that. It is not unreasonable to assume that some local residents or passers-by may have regarded the closure and loss of the shop as a fait-accompli without realising that the former shop/post office is still technically a retail unit in planning terms, even if the particular business has ceased to trade.
28. Drawing all the above points together, the proposal would not see the loss of the last remaining retail unit in the village. The village has other existing retail provision to provide some day-to-day needs, and there is no submitted evidence before me to suggest that these units are struggling or under threat of closure at the current time. I am satisfied there is sufficient evidence to show there is no realistic prospect of the former shop floor area within the property continuing for a commercial/retail use or of making a significant contribution to employment provision in the village or surrounding area. The making of a wholly residential property would be in a village deemed suitable for residential use. Accordingly, the change of use from former post office and village shop to residential would comply with Core Strategy Policies CS.20, CS.22, CS.23, CS.25 and AS.10. and Neighbourhood Plan Policy SE1, whose aims are outlined above.

Heritage asset

Special interest and significance

29. The host property is a Grade II listed building. According to the official list entry² at the time of listing in 1986, the property was a post office and house, but was previously a house. The building likely dates from the late 16th/early 17th century with later alterations and additions. It is constructed of coursed ironstone rubble with a steeply pitched slate roof, brick end and stacks and two entrances, with an early 20th century shopfront.

² National Heritage List for England: list entry number: 1355452

30. The special interest and significance of the listed building, insofar as it relates to this appeal, are largely derived from its architectural and historic interests in illustrating a late 16th/early 17th century vernacular cottage in a village street scene. The use of traditional construction techniques and materials, along with surviving historic fabric and internal features make important contributions in these regards. Special interest and significance also stem from its inclusion for group value as part of the buildings forming the High Street.

Appeal proposal and effects

31. A joint application form was used for both planning permission and listed building consent. No specific listed building works were specified but the application form said to refer to the appellant's submitted Heritage Statement and drawing no. 20-52-12. The Heritage Statement describes the listed building works as *"change of use of the former post office to a residential kitchen for Old Post Cottage along with the associated installation of kitchen cabinets and appliances which do not physically affect the building itself"*. However, submitted drawing 20-52-12 is annotated to also show the installation of a log burner and adjacent shelves.
32. The discrepancy between what the Heritage Statement describes and what the plans show led the Council to seek clarification and additional information as to the extent of the works that had been undertaken and for which listed building consent was being sought. In particular, the Council raised issues about the new log burner and surrounding area or enclosure and how the flue had been installed and where it had been routed.
33. To address this, during the application the appellant confirmed that the flue for the log burner was routed through the existing chimney and submitted a HETAS Commissioning Sheet for the installation of the log burner. This confirms that the existing chimney was relined and a new hearth was installed. However, it does not describe what other works were done to the fabric of the building to make space for the log burner, new hearth and route of the flue.
34. In response to my³ request for further clarification, the appellant has since confirmed that listed building consent is being sought for works that consist of *"the installation of kitchen cupboards; installation of cooker and top within, and installation of log burner and shelves"*. However, no significant further information or plans have been provided as part of the appeal to describe or illustrate what works have been done to the historic fabric of the building to create the alcove for the log burner, the new hearth and the adjacent shelves.
35. On my visit I saw there was an alcove, one half of which housed the log burner and the other some shelves. Two side-by-side timber beams ran across the log burner alcove and the shelving, one of which was secured by modern metal brackets. Above these two beams is a large single beam and some sort of plaster infill.

³ Letter to the parties dated 30 May 2024

36. Submitted drawing no. 22-52-03 is a survey of the ground floor plan before the kitchen units were installed. It shows a flat wall with a return by the shop window and what seems to be a free-standing pier or column of some description shown a little distance away from the wall.
37. The proposed scheme on drawing no. 20-52-12 shows the return by the window gone and a recessed space created for the log burner and shelves by projections coming out from the flat wall and appearing to connect with the pier or column. A side wall return has been created to the right hand side of the fireplace (when facing) where a free-standing pine corner cupboard is positioned.
38. There are no elevation drawings or even photographs of the wall before the log burner and shelves were installed. It is unclear what works have been undertaken to create the alcove for the log burner and shelves as there are no corresponding details or description of any works in the Heritage Statement, or in correspondence with the Council or in the appellant's limited confirmation as part of the appeal.
39. It is imperative that proposals, even if they have already been undertaken, are accompanied by drawings and specifications of sufficient detail to illustrate and/or describe the works in order to avoid uncertainty over what is proposed or has been done, and to allow a robust assessment of any consequential effects. This is even more important given the building's Grade II listed status, which is a designated heritage asset of national importance.
40. I therefore find there are various discrepancies and uncertainties that cause me to question the extent of the works and what I would be granting listed building consent for, were I minded to allow the appeal. I cannot therefore be certain what works have actually been done to the building and whether they preserve the listed building's special interest and significance. I concur with the Council that overall the application lacks the necessary details and clarity as to what works have been undertaken for which listed building consent is sought and the effect on the historic fabric of the building.
41. That said, I saw that the new kitchen cupboards and cooker were largely free-standing in existing alcoves and spaces within the room. The large inglenook would most likely have been used for a fire or a cooking range. The installation of a new cooker in this space would not appear to be inappropriate. I am satisfied that the kitchen units and cooker have been installed as a light touch and do not appear to have harmed the historic fabric of the building. The Council raises no concern with regard to these elements.
42. I also saw that the flue from the log burner went straight up above the burner, concealed by a metal safety plate. On inspection of the upper floor rooms above the log burner no parts of the flue were exposed to view. Whilst sections through the building and chimney would have addressed the matter, it would appear that the existing chimney has been used as the route for the flue.
43. Notwithstanding this, I am unable to properly assess and conclude whether the associated works, in relation to the change of use, preserve the Grade II listed building or any features of special architectural or historic interest

which it possesses and thus harm its significance. Hence, I cannot reasonably determine whether the proposal would meet the requirements of section 16(2) of the Act or comply with the provisions of the Framework or Core Strategy Policy CS.8 which seeks, amongst other things, to protect heritage assets.

Other Matters

44. The listed building is located within the CA. The CA is centred on the High Street that runs through the middle of the village. There are a variety of period properties displaying a mix of designs, sizes, ages and uses, such that I consider the character and appearance of the CA, and thus the special interest and significance, are in part derived from the architectural richness and variety of its historic buildings that reflect the economic and social development and growth of the village over time. The listed building is a prominent part of the street scene and important component of the townscape within the CA. Its heritage merit as well as its aesthetic charm means that it positively contributes to the character and appearance of the CA as a whole and thereby to its significance as a designated heritage asset.
45. The change of use of the post office and village shop to a wholly residential use would not involve any external alterations to the property and the former shopfront would remain. The change from retail back to residential would see a previous use reinstated in the High Street. Consequently, the character and appearance of the CA would be preserved, and the significance of the CA would not be harmed.
46. I am also mindful of the duty under section 66(1) of the Act to have special regard to the desirability of preserving the setting of a listed building. The George Hotel and attached carriage entrance and barn, which adjoins the Old Post Cottage, is Grade II listed⁴. It is of a similar age to the appeal property and built of similar traditional materials. Its significance is largely derived from its architectural and historic interest as well as from its group value as part of the wider street scene setting of the village High Street. Given the nature and extent of the proposal, I consider that the setting of the George Hotel is preserved, and its significance is not harmed. The Council has raised no concerns in this regard.
47. The appeal site is located within the Cotswolds National Landscape (formerly an Area of Outstanding Natural Beauty). Paragraph 182 of the Framework states that great weight should be given to conserving and enhancing the landscape and scenic beauty of a nationally designated area as they have the highest status of protection in relation to those issues. Alterations to the building are internal and the change of use to residential use does not detract from the village and its function and does not involve encroachment into the National Landscape. From the evidence before me and my site observations I am satisfied that the landscape and scenic beauty of this nationally designated area is not adversely affected. The Council has raised no concerns in this regard either.

⁴ National Heritage List for England: list entry number 1185466

Conditions

48. The description of development for Appeal A is solely for the change of use, with no mention of the internal works that have been undertaken. The Council has suggested a condition is imposed, to which the appellant has no objection, that would restrict the floorspace that has changed use to be used for purposes incidental to the enjoyment of the dwellinghouse and not sold or let separately. The floorspace is a small proportion of the overall dwelling, without any bathroom or bedroom facilities, such that I find restricting it to be incidental to the main dwelling is unnecessary in this instance. As the change of use has already taken place and the rest of the building is already in residential use, in my view there is no need to impose any other conditions.

Conclusions

49. Appeal A: For the reasons given above I conclude that the appeal should be allowed, and planning permission granted.

50. Appeal B: For the reasons given, I conclude that the appeal should fail, and listed building consent is not granted.

K. Stephens

INSPECTOR