



Appeal Decision

Site visit made on 20 November 2024

by Jonathan Edwards BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 25 November 2024

Appeal Ref: APP/F1610/W/24/3346906

**The Garden Cafe, Moore Road, Bourton-On-The-Water,
Gloucestershire GL54 2AZ**

- 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 Andrew Jackson (Jacksons Garden Cafe Ltd) against the decision of Cotswold District Council.
 - The application Ref is 23/03953/FUL.
 - The development proposed is change of use of ground floor cafe to self-catering accommodation.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of ground floor cafe to self-catering accommodation at The Garden Cafe, Moore Road, Bourton-On-The-Water, Gloucestershire GL54 2AZ in accordance with the terms of the application, Ref 23/03953/FUL, 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 not commence until details of vehicular parking, turning and access facilities to serve the development have been submitted to and approved in writing by the local planning authority. The approved facilities shall be provided prior to the first use of the development hereby permitted and they shall thereafter be retained for vehicular parking and turning use only.
 - 3) The development hereby permitted shall not commence until details of cycle storage for at least 2 cycles to serve the users of the development have been submitted to and approved in writing by the local planning authority. The approved storage facilities shall be provided prior to the first use of the development hereby permitted and they shall thereafter be retained for cycle storage use only.
 - 4) Notwithstanding any provision within the Town and Country Planning (General Permitted Development) Order 2015 (or any other provision within legislation revoking and replacing that Order) or Class C3 of the Schedule of the Town and Country Planning (Use Classes) Order 1987 (or any other change of use permitted by any subsequent Order), the development shall be occupied as holiday accommodation only and shall not be occupied as a permanent, unrestricted accommodation, second home, a principal or primary place of residence or within the C4 Use Class (or any subsequent equivalent Use Class within other legislation).

Preliminary Matters

2. The application form states the appeal development has commenced but that the change of use has not been completed and the appeal property is also currently vacant. It would seem the café use has ceased but there is little evidence to show the proposed use has started. Therefore, I have assumed the change of use subject of this appeal has not occurred.
3. The description of development as set out in the header and in my decision is taken from the application form. While it is not stated in the description, it is clear from the submissions that the development would provide holiday accommodation. Like the Council, I have assessed the proposal on this basis.

Main Issue

4. The main issue is the effect of the development on the key centre for Bourton-On-The Water (the key centre) and whether it would be acceptable in light of policy EC8 of the Cotswold District Local Plan 2018 (the LP).

Reasons

5. The appeal property lies within the key centre. Under part 5 of LP policy EC8, main town centre uses (MTCUs) are generally permissible within key centres and their loss is generally resisted. The LP does not define MTCUs and so it is reasonable to have regard to the relevant definition in Annex 2 of the National Planning Policy Framework (the Framework). This states that "tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities)" is classed as a MTCU. The use of the word "including" indicates the facilities in the brackets are not a closed list and that others could fall within the scope of tourism development and be a MTCU.
6. The proposal would provide self-catering residential accommodation and so it would be clearly different to a hotel. However, occupation of the unit would be restricted to just holidaymakers through the planning condition proposed by the appellant and as suggested by the Council. As such, it would be reasonable to treat the proposal as a form of tourist development and so a MTCU.
7. In light of the Framework's definition, it is evident that the authorised café is also a MTCU. Therefore, the proposal would involve the change from one MTCU to another, rather than a loss of such a use. On my reading of LP policy EC8, this is permissible provided the development complements the retail offer of the key centre. There is no requirement under the policy for an appropriate business case to be demonstrated in such circumstances.
8. Also, on my reading, the policy's resistance to the loss of a MTCU is only applicable for a change to a non-MTCU. Paragraph 9.8.6 of the LP seems to support this view as it refers to the effects of changes from an active MTCU to other uses. Moreover, the requirement under LP policy EC8 to show a property is of no commercial interest only applies where the loss of a MTCU is proposed. It is not applicable for this scheme as it is proposed to change from one MTCU to another. As such, no evidence on marketing is required.
9. There are shops and a café on the short stretch of Moore Road between the appeal property and the High Street, where there are several other shops and places to eat. Given this relationship, it is likely guests of the proposed accommodation would want to explore the locality and would visit nearby

shops and food outlets. The development would complement the retail and commercial elements of the key centre by offering tourists the opportunity to stay within easy walking distance of a range of businesses. In these regards the proposal would help maintain the vitality of the key centre.

10. I am referred to appeal decision reference number APP/F1610/W/15/3130420. However, the development proposed under that appeal was for the change of use of a shop to a unrestricted Class C3 residential use, rather than holiday accommodation. Moreover, the decision refers to policies of an earlier local plan rather than the LP. As such, I am not bound to arrive at the same conclusion to that of the previous Inspector on this main issue.
11. For the above reasons, I conclude the development would be acceptable when assessed against LP policy EC8. Also, I find the proposal would avoid adverse effects on the vitality and viability of the key centre.

Other Matters

12. The appeal property is in the Bourton-On-The-Water Conservation Area (the CA), which would seem to gain its significance from the historic, architectural and aesthetic interest of its buildings and their context. The development would not affect the look of the appeal property and so it would preserve or enhance the character, appearance and significance of the CA.
13. Also, the former café is in the Cotswolds National Landscape Area of Outstanding Natural Beauty. However, it is within a built up area and the development would have no noticeable effect on the landscape and scenic qualities of the locality. The proposal would be acceptable in these regards.

Conditions

14. I have considered the list of conditions suggested by the Council in light of the relevant provisions of the Framework. Where appropriate I have amended the wording for reasons of precision. A condition that lists approved plans is not needed as the development relates solely to a change of use.
15. Condition 2 is imposed in the interests of highway safety and to ensure users of the development have appropriate parking facilities. Condition 3 is needed to promote sustainable modes of travel and healthy communities. I have included a condition that limits the use of the development to holiday accommodation as this is the basis on which the appeal has been assessed. There is insufficient evidence to show unrestricted residential occupation would be acceptable.

Conclusion

16. For the reasons given above, I conclude the proposal would accord with LP policies and so the appeal should be allowed.

Jonathan Edwards

INSPECTOR