



Appeal Decision

Site visit made on 5 November 2024

by R Jones BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 27 November 2024

Appeal Ref: APP/H0520/W/24/3344055

30 High Street, Warboys PE28 2RH

- 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 Robert Dent against the decision of Huntingdonshire District Council.
 - The application Ref is 23/01927/FUL.
 - The development proposed is change of use of the former Post Office (use class E) adjoining 30 High Street to form part of existing residential property (use class C3).
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Decision

1. The appeal is allowed and planning permission is granted for change of use of the former Post Office (use class E) adjoining 30 High Street to form part of existing residential property (use class C3) at 30 High Street, Warboys, PE28 2RH in accordance with the terms of the application, Ref 23/01927/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: Floor Plan; Location Plan; and Block Plan (received 11.10.2023).
 - 3) The change of use hereby permitted shall be used only for purposes incidental to the enjoyment of the dwelling house. It shall at no time be independently occupied or let or disposed of.

Main Issue

2. The main issue in this case is the loss of the appeal property, a local service or community facility.

Reasons

3. The appeal property comprises a Use Class E unit of around 47sqm which adjoins No.30 High Street (No.30), a residential dwelling fronting High Street on its southern side. The unit was previously occupied by the Post Office who have relocated to the Spar store around 350m to the east, at the junction of High Street and Mill Green. It has since been occupied by a hardware store, but has been vacant since 2022.

4. It is proposed to change the use of the Use Class E unit to Use Class C3, such that it would form part of No.30 extending the ground floor residential accommodation. No external alterations to the appeal property are proposed.
5. It is agreed between the parties that Policy LP22 of Huntingdon's Local Plan to 2036 (2019) (LP) is the determinative policy in this case. The stated purpose of this policy is to maintain the sustainability, vitality and viability of settlements to support local facilities and services and to provide for the needs of the local community. The relevant part of this policy states that where permitted development rights do not apply a proposal which involves the loss of a local service or community facility will only be supported where:
 - e) it demonstrates that there is no reasonable prospect of that service or facility being retained or restored because either:
 - i) there is insufficient community support for its continuation; or
 - ii) reasonable steps have been taken to effectively market the property for its current use without success.
6. The Council's decision alleges a conflict between the appeal proposal and *only* part e) ii) of LP Policy LP22. The supporting text to LP Policy LP22 (at paragraph 6.49) explains that effective marketing will in most cases need to be for a continuous period of 12 months at a value reflecting its permitted use, but recognises that in particular circumstances it may be appropriate for 'alternative arrangements' to establish if there is any realistic prospect of maintaining the service or facility. It is accepted by the appellant that the appeal property has not been actively marketed, and that local agents were only contacted following the Council's decision.
7. The evidence before me is that a single local agent has advised that demand for the appeal property would 'likely be very limited', and there would be not insubstantial costs associated with providing services (notably electricity and water) for the appeal property separate and independent from the adjoined residential dwelling at No.30. I am not, however, persuaded on this evidence that the appeal property has been marketed at all, let alone effectively, or that the absence of separate (essential) services constitutes the 'alternative arrangements' envisaged by LP paragraph 6.49. It has not therefore been demonstrated that LP Policy LP22 part e) ii) has been satisfied.
8. The Council's case is that the first part (so part e) i)) of LP Policy LP22 is not applicable because there is a difference between how a service and facility operates, and, in this case, the shop (considered a commercial local service) is not usually quantified in its community demand, but the financial viability to maintain its operations. Whilst I understand the distinction the Council are trying to make, LP Policy LP22 makes no such distinction between a local service or a community facility, stating only that they '*include, but are not limited to, shops, public houses, places of worship*' etc. Nor does the policy define a 'commercial local service,' or require evidence of financial viability. In any event, I find the two must be reasonably linked; without community demand, a shop would not be financially viable.
9. The supporting text to LP Policy LP22 (again at paragraph 6.49) recognises that assessing the level of community support for a local service or facility is a matter of judgement, but that it could be informed by information such as evidence of the level of recent usage, as well as the number and nature of comments made on an application by members of the local community. With

regards LP Policy LP22 part e) i), I note that Warboys Parish Council recommended approval of the planning application because there were no resident objections and the District Councillor for Warboys Ward has written in support of the appeal. I also find it telling that in a small community, such as Warboys, there have been no objections to the loss of the shop, or tangible support for its retention and reoccupation. I am therefore satisfied that its recent lack of use (vacant since 2022) and the absence of any objection to the application meets the requirements of LP Policy LP22 e) i). This is sufficient to demonstrate that there is no reasonable prospect of that service or facility being retained or restored.

10. The Council consider that given the current (most recent) use was for hardware sales, LP Policy LP22 part e) ii) is more applicable, namely that reasonable steps have been taken to effectively market the property for its current use without success. I recognise that the supporting text to the policy (at paragraph 6.49) states that for commercially run facilities, a robust marketing exercise is the most transparent way of demonstrating that such facilities are no longer viable, but this does not imply that a shop should only be assessed against part e) ii). In this regard, I concur with the appellant that LP Policy 22 does not differentiate between uses or state that either criterion (i) or ii) is only applicable to a specific use. In order to demonstrate that there is no reasonable prospect of a service or facility being retained, *either* part e) i) or ii) (not both) must be satisfied. For the reasons I have given above, I have found that the appeal proposal satisfies LP Policy LP22 part e) i).
11. Therefore, despite my findings in respect of part e) ii), I conclude that it has been demonstrated that there is no reasonable prospect of the appeal property (a local service or community facility) being retained or restored, and the proposals would not undermine the role of Warboys in the provision of services. Consequently, the appeal proposal accords with LP Policy LP22.

Conditions

12. The Council suggested three conditions should the appeal be allowed and these have been assessed against the relevant tests in the National Planning Policy Framework. In addition to the standard timeframe for implementation of the planning permission, in the interests of certainty, I have attached a condition specifying the approved drawings. In the interests of the character and amenity of the area, I have also attached a condition to ensure the unit is not occupied, let, or disposed of, independently of No.30 High Street.

Conclusion

13. For the reasons given above, I conclude that the appeal should be allowed.

R. Jones

INSPECTOR