



Appeal Decision

Site visit made on 8 January 2025

by **R Kent BA (Hons) MTP DipM MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 27 February 2025

A. Appeal Ref: APP/P1133/W/24/3346441

28A Fore Street, Shaldon TQ14 0DE

- 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 S.Fisher against the decision of Teignbridge District Council.
 - The application Ref is 23/00820/FUL.
 - The development proposed is described as 'Change of use from commercial use back to Residential use.'
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B. Appeal Ref: APP/P1133/W/24/3346444

28A Fore Street, Shaldon TQ14 0DE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Absolute against the decision of Teignbridge District Council.
 - The application Ref is 24/00430/NPA.
 - The development proposed is described as 'Conversion of Estate Agents office to residential dwelling for Class C3 use. Prior to being an Estate Agents office, the property was a residential dwelling.'
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Appeal A: Decision

1. The appeal is allowed and planning permission is granted for Change of use from commercial use to dwelling at 28A Fore Street, Shaldon TQ14 0DE in accordance with the terms of the application, Ref 23/00820/FUL subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Site Location Plan 23.30 001
 - Proposed floorplans 23.30 005A
 - Proposed elevations 23.30 006
 - 3) Prior to the occupation of the dwelling hereby approved, a flood management plan shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall thereafter be occupied in accordance with the approved flood management plan.

Appeal B: Decision

2. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for Application for Prior Approval under Part 3 Class MA and paragraph W of the GPDO for Conversion of Estate Agents office to residential dwelling for Class C3 use at 28A Fore Street, Shaldon TQ14 0DE in accordance with the application 24/00430/NPA and the details submitted with it subject to the following conditions:
 - 1) The development hereby permitted shall be carried out in accordance with drawing nos:
 - Site Location Plan 23.30 100
 - Proposed floorplans 23.30 104
 - Proposed elevations 23.30 105
 - 2) Prior to the occupation of the dwelling hereby approved, a flood management plan shall be submitted to and approved in writing by the Local Planning Authority. The dwelling shall thereafter be occupied in accordance with the approved flood management plan.

Procedural Matters

3. As set out above there are two appeals on this site. They differ only in that Appeal B is against the refusal of prior approval for the change of use of the premises to a dwelling. I have considered each proposal on its individual merits. However, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.
4. The name of the appellant is normally taken from the planning application form. In the case of Appeal A, the planning applicant is named as "Care of Agent." The Council's decision notice named the applicant as Mr S Fisher and the appeal has also been submitted in that name. I have sought the parties' comments on this and the Council has confirmed that the application was determined on the basis that Mr Fisher was the applicant. I have therefore considered the appeal accordingly.
5. The second reason for refusal in Appeal A refers to paragraph 135 of the 2023 National Planning Policy Framework (the Framework). The wording of that paragraph has not changed in the revised Framework published in February 2025 and I have determined the appeal on that basis.
6. For Appeal B, Article 3(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) grants planning permission for classes of development as set out in Schedule 2 subject to Regulations 75 to 78 of the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations). This provides that it is a condition of any planning permission granted by the GPDO that development which is a) likely to have a significant effect on a European site or offshore marine site, alone or in combination with other plans or projects and b) not directly connected with or necessary to the management of the site, must not begin until the developer has received written notification of the approval of the local planning authority under Regulation 77. A Regulation 77 application may be submitted and determined

separately to an application for prior approval and I have determined Appeal B accordingly.

7. The descriptions of the development in the heading above are taken from the application forms. For my formal decision on Appeal A, I have adopted the description used on the Council's decision notice as it more clearly describes the proposal. For Appeal B, I have omitted the second sentence as this is not a form of development under the Town and Country Planning Act.

Main Issues

8. The main issues in Appeal A are:
 - Whether the proposed development would provide adequate living conditions for future occupants of the dwelling with particular reference to internal living space, privacy, daylight, bin storage and disturbance from vehicle headlights;
 - Whether the proposal would preserve or enhance the character or appearance of the Shaldon Conservation Area with particular reference to the storage of bins; and
 - The effect of the development on the Exe Estuary Special Protection Area (SPA) and the Dawlish Warren Special Area of Conservation (SAC).
9. The main issue in Appeal B is whether the proposal would be permitted development under Class MA, with particular reference to the 'Technical housing standards – nationally described space standard' (NDSS).

Reasons

Appeal A

Living conditions

10. The appeal site is a two storey 1980's building with an office and kitchen on the ground floor and a further office and bathroom on the first floor. It has a substantial shop window facing onto the road with 2 windows in the office space above. Prior to the current use which received planning permission in 2020, the building had been occupied as a dwelling for a number of years having received planning permission in 1997 to change use from a hairdresser.
11. The main windows in the proposed living and bedroom areas, whilst north facing, are substantial and allow a significant amount of natural light into both of the proposed habitable rooms. The removal of the wall separating the kitchen from the proposed living area would also allow natural light to reach the kitchen. Overall, the proposed habitable rooms would receive sufficient daylight for future occupiers.
12. The proposed ground floor plans for both Appeals A and B show internal bin storage space. The evidence also indicates that when the site was previously occupied as a dwelling, a refuse bin was kept outside the front of the house. The levels of waste and recycling generated by one occupant would be likely to be less than that generated by a larger household and I have seen no evidence that it could not be accommodated within the dwelling pending final disposal.

13. The ground floor windows face directly towards oncoming traffic at a busy road junction. Whilst car headlights are occasionally used during the day time, generally they are mostly used after dark when blinds or curtains are typically drawn to provide privacy. This typical arrangement would shield future residents from light from vehicles. It is not uncommon for town centre dwellings to be close to passing traffic and the relationship of the proposed dwelling to the road and footway in this instance would not be harmful to the living conditions of future occupiers. It is also not uncommon for homes within central locations not to have dedicated outdoor amenity space.
14. Although reference has been made to the NDSS, they are not referenced in any of the Teignbridge Local Plan 2014 (TLP) policies 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 development plan policy requirement. The development plan does not prescribe space standards of its own, but adopts a more responsive, case by case approach.
15. The appellant's statement of case indicates that the scheme would provide a 42 sqm, one bedroom two storey dwelling with the intention that it would be occupied by one or two people. Table 1 of the NDSS sets out the minimum gross internal floor area and storage requirement for dwellings according to the number of bedrooms, the number of bed spaces (persons) and the number of storeys in the dwelling. The gross internal floor area for the proposed dwelling would fall beneath the 58 sqm standard for a 1 bedroom, two person, two storey dwelling set out in Table 1.
16. Whilst Table 1 provides no equivalent standard for a one person two storey dwelling, it does however set a standard of between 37sqm and 39sqm for a one storey dwelling depending on the proposed bathroom arrangements. It also sets a minimum standard for the floor area of a single bedroom of 7.5sqm which, from the floor plans submitted with appeal B, the proposal significantly exceeds.
17. Whilst the current office area would be sufficient to provide a compact but useable living area, the opening up of the kitchen would provide a more spacious feel to the ground floor. On this basis, using the standards pragmatically as guidance and from what I saw on my site visit, the internal space would be of sufficient standard for future occupiers.
18. For the reasons given, the proposal would therefore provide adequate living conditions for future occupants of the dwelling in compliance with policy S1 of the TLP in so far as it relates to the amenity of the users of the proposed development.

Conservation Area (CA)

19. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the CA.
20. The Shaldon Conservation Area Management Plan indicates that the CA derives its significance from its origins as a small fishing village and the manner of its transformation in the 19th century into a modest resort that was essentially residential in nature. The Shaldon Conservation Area Character Appraisal shows that whilst commercial uses including shops, restaurants and estate agents, are

focussed on Fore Street and The Strand, they are mixed with residential properties, chapels and pubs creating an “intimate, ‘villagey’ atmosphere.” Although a relatively recent building, the Character Appraisal identifies the appeal site as having a positive impact on the CA.

21. The removal of the modern estate agent’s advertising on the face of the building, which had already taken place at the time of my site visit, is a modest enhancement in the appearance of the street. No other external alterations to the building are proposed and the change in the nature of the use from a commercial activity to a residential use would be compatible with the mixed character of Fore Street.
22. The Council’s evidence does not specify the size, colour or nature of bins used in the Council’s area or whether the Council has alternative arrangements for smaller households or properties without off-street space to store them. Whilst the site has no dedicated external space to store bins completely out of view, the photographs from 2014 to 2019 of when the site was occupied as a dwelling show a black bin and smaller recycling containers positioned adjacent to the front of the building. The bin and containers in the photographs are not prominent being located adjacent to railings and plant pots in front of the adjoining property and behind a street light. A further photograph shows a similar arrangement when the site was used as an estate agent in 2021. The evidence demonstrates that, if bins had to be left on the street, they would not harm the character or appearance of the CA.
23. Overall, the removal of the advertising associated with the use as an estate agents provides a modest enhancement to the character and appearance of the CA and the proposed use as a dwelling would preserve the significance of the CA as a whole.
24. For the reasons given, the proposal would therefore comply with TLP Policies S2 and EN5 which seek to protect and enhance the CA.

Effect on nationally and internationally protected sites

25. The site falls within 10km of the Exe Estuary Special Protection Area (SPA) and Dawlish Warren Special Area of Conservation (SAC). Regulation 63(1) of the Habitat Regulations requires me to make an appropriate assessment of the implications of the proposal for the conservation objectives of the SPA and SAC.
26. The SPA extends 10 km from Exeter to the sea at Dawlish Warren. It encompasses the coastal and offshore waters, intertidal mudflat and sandflats, low lying land and marshes and the beaches and dunes of Dawlish Warren. The mudflats and sandflats support eelgrass and beds which provide rich feeding habitats for wintering birds. Its qualifying features are that it supports populations of overwintering avocet, slawonian grebe, black-tailed godwit, dark-bellied brent goose, dunlin, grey plover, oystercatcher and a waterbird assemblage.
27. The SAC is primarily comprised of coastal sand dunes and beaches and comprises a large sand spit and dune system supporting a population of petalwort. The fixed and shifting dunes, the humid dune slacks and the petalwort are all qualifying features of the SCA.
28. The evidence indicates that the close proximity of the appeal site to the SPA and SAC means that future occupants of the development could contribute to

disturbance of these protected areas through recreational activities. The potential for adverse effects is likely to increase with the amount of residential development and tourist accommodation meaning that the combined effects could be significant and effect the integrity of the SPA and SAC.

29. The Council has adopted a 'Joint approach to Habitats Mitigation Policy' 22 July 2014 which establishes a joint approach with adjoining Councils towards the mitigation of Likely Significant Effects on the SPA and SAC arising from cumulative residential and tourist accommodation schemes. A Habitats Mitigation Contribution is sought for each new dwelling which is then used to deliver mitigation for the recreational impacts on the protected sites. For this appeal, the parties have elected to enter into an agreement under S111 of the Local Government Act 1972 and a signed copy has been provided to me. A 'Habitats Mitigation Contribution' of £1157 has been paid to the Council under this agreement towards mitigation of the effects of the proposal on the internationally protected sites.
30. The Council's evidence indicates that the contributions are used to fund on-site mitigation works and for Suitable Alternative Natural Green Spaces (SANGS). These are managed through a Committee that works across three local authority areas to protect internationally important nature reserves including the SPA and SAC.
31. I have consulted Natural England which has confirmed that the mechanism for securing the mitigation through S111 and the contribution which has been secured is sufficient to avoid adverse impacts on the SPA and SAC. As the payment has already been made through an agreement under S111, I am satisfied that likely significant effects on the integrity of the SPA and SAC would be avoided.
32. For these reasons, the proposal would not have an adverse effect on the SPA and SAC. It would therefore comply with the Habitat Regulations and with TLP Policy S2 which, amongst other objectives, seeks to protect wildlife habitats.

Appeal B

Whether the proposal would be permitted development

33. Article 3 paragraph 9(A) of the GPDO states that schedule 2 of the GDPO does not grant planning permission for any new dwellinghouse "(a) where the gross internal floor area is less than 37 square metres in size; or (b) that does not comply with the nationally described space standard issued by the Department for Communities and Local Government on 27th March 2015."
34. The proposed floor plans state that the ground floor area would be 21.5sqm and the first floor 21.7 sqm creating a total floor area of 43.2 sqm. The floor area excluding the stairwell would be 39.3sqm. The proposal thereby exceeds the 37sqm threshold in the GPDO.
35. With regard to criterion b), the proposed floorplans for Appeal B indicate a single bed in the first floor bedroom and the appellant's evidence states that the Appeal B proposal is for a one bed, one person, two storey dwelling. Table 1 in the NDSS sets out the relevant minimum gross internal floor areas and storage. As I have referred to in my consideration of Appeal A above, whilst the NDSS are to be applied across all tenures, the table does not provide a standard for a one person, one bed two storey dwelling.

36. As regards the technical standards which do apply, the proposed bedroom would have a floor area of 13.2 sqm and would be 2.841m wide. This exceeds the technical requirements for a single bedroom. I have seen no evidence to demonstrate that the floor to ceiling heights do not meet the technical requirements of the standards. The applicable requirements of the NDSS would therefore be met.
37. Paragraph MA.1 of the GPDO sets out the other circumstances under which development is not permitted by Class MA. The Council's delegated report assesses the proposal against the criteria in paragraph MA.1 and does not identify any conflict with them. From the evidence before me, I have found no reason to come to a different conclusion.
38. Paragraph MA.2 sets out the conditions under which development under Class MA is permitted. The site is in a central location with access to services. I have seen no evidence to suggest that adverse transport impacts would arise. Similarly, there is no evidence of contamination risks. A Flood Risk Statement was submitted with the appeal proposals which concluded that the proposed dwelling would be safe from all forms of flooding. This has been assessed by the Council and concluded to be within Environment Agency guidelines. Whilst the site is in a central location adjacent to a road junction, I have seen no evidence that future occupiers would be adversely affected by noise from commercial premises or vice versa. For the reasons given in respect of Appeal A, the change of use would not have an adverse effect on the CA and there would be adequate natural light for the habitable rooms. The Council has not identified any fire safety impacts on the intended occupants of the dwelling and I have no reason to arrive at a different conclusion.
39. For these reasons, the proposal would not conflict with the standards and requirements of the NDSS and would constitute permitted development.

Other Matters

40. Whilst objections were submitted by interested parties to the Appeal A proposal, this was on the basis of it resulting in a loss of places to socialise or eat and drink. The existing use is as an estate agent and I have seen no evidence to demonstrate that the change of use of the premises to residential use would have a harmful effect on the availability of other commercial, business or service uses in Shaldon.
41. The site is adjacent to Hunters Lodge, a Grade II listed building. The significance the listed building derives from its setting is drawn from its position within the historically mixed use Fore Street. I have already found that the proposal in Appeal A would retain the established character of Fore Street, and so it follows that the setting of the Listed Building would also be preserved.

Conditions

42. With regard to Appeal A, in addition to the standard commencement condition, a condition requiring compliance with the submitted plans is necessary for reasons of certainty. The Council suggests that a condition be imposed to secure a flood evacuation plan. The Flood Risk Statement indicates that it is advisable that all future occupants subscribe to the Environment Agency Floodline Warning Direct scheme. It also recommends that raised gas and electrical fittings are used and a

removable flood gate is provided. I am satisfied that it would be reasonable to secure this through a condition securing a flood management plan. I have amended the Council's suggested wording to reflect this.

43. For Appeal B, development under Class MA is permitted subject to conditions at paragraphs MA.2.(5) and (6) which include that the development must be completed within a period of 3 years starting with the prior approval date; and that any building permitted to be used as a dwellinghouse by virtue of Class MA is to remain in use as a dwellinghouse within the meaning of Class C3 of Schedule 1 to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the use as a dwellinghouse. Two of the Council's suggested conditions replicate these conditions and are therefore unnecessary. The Council also suggests a condition requiring the development to be carried out in accordance with the approved plans. This is necessary to provide certainty. However, as the Flood Risk Statement is not a plan, I have omitted it from the suggested list. For the reasons given for Appeal A, I have, instead, imposed a condition requiring a flood management plan.

Conclusions

44. Appeal A would comply with the development plan read as a whole. Material considerations do not indicate that a decision should be made other than in accordance with it. For the reasons given above the appeal should be allowed.
45. I also conclude that Appeal B should be allowed and prior approval should be granted.

R Kent

INSPECTOR