



Appeal Decision

Site visit made on 6 May 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 1st July 2025

Appeal Ref: APP/G2245/W/24/3356355

Malyons House, College Road, Hextable, Kent BR8 7LT

- 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 Rusanthini Sutharsan against the decision of Sevenoaks District Council.
 - The application ref is 24/01986/FUL.
 - The development proposed was originally described as “Proposed to Move the Shop’s entrance to Garage’s entrance and Garage conversion into Shop floor in order to Disabilities step free access.”
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Decision

1. The appeal is allowed and planning permission is granted for replacing the existing garage door with shop door to provide step free disabled access at Malyons House, College Road, Hextable, Kent BR8 7LT in accordance with the terms of the application, ref 24/01986/FUL, subject to the conditions in the accompanying schedule.

Applications for costs

2. An application for costs was made by Mrs Rusanthini Sutharsan against Sevenoaks District Council. This application is the subject of a separate decision.

Preliminary Matters

3. During the course of the planning application, the description of development was changed from the original wording in the banner heading to “conversion of garage into a shop, and replace existing garage door with shop door to provide step free disabled access”. This was agreed in writing by the appellant. However, the appellants appeal submissions have since made it clear that they no longer consider this description appropriate.
4. The appellants original description contains a significant amount of superfluous text. Furthermore, the description of development contained within the decision notice was agreed at the time the planning application was determined. As such, in the interests of clarity and consistency I have used the Council’s description of development in my formal decision. However, I have deleted reference to “conversion of garage into a shop” as this is not an act of development for the reasons given later in my decision.

Procedural Matters

5. The evidence before me shows a certificate of lawful proposed use¹ (the certificate) was issued by the Council, confirming a retail use of the appeal site would be a lawful

¹ LPA ref. 24/01233/LDCPR

use of the property. The certificate confirms this was due to the existing office use and proposed retail use falling within Class E of the Town and Country Planning (Use Classes) Order. The plan identifying the site issued alongside the certificate, clearly shows this decision relates to the entire building subject to this appeal, including the attached garage. There is nothing on the certificate which suggests that the garage does not benefit from the confirmed lawful retail use.

6. On this basis, as I understand it from the evidence in front of me, the appellant submitted an application for the installation of a small shop front to replace a garage door, as well as a small access ramp. The Council, however, refused the planning application on grounds relating to parking and highway safety, lack of refuse storage details and the living conditions of neighbours, all of which related to the retail use of the site.
7. The Council cannot retract or re-assess the merits of the certificate as part of their assessment of the planning application or appeal submissions. The retail use has already been confirmed through the certificate to be lawful by virtue of not amounting to a material change in the use of the building, and as such, would not comprise an act of development as defined by section 55 of the Town and Country Planning Act. I cannot assess something which is not development against policies of the Council's development plan. I have no other option than to conclude that the issue of the suitability of the retail use cannot form part of this appeal
8. I must therefore assess the suitability of the appeal in relation to the installation of the shop front and access ramp in terms of its potential impact on character and appearance, and as such, this will form the Main Issue in this appeal.
9. As part of their appeal submissions, the appellant has put forward revised plans which remove the parking spaces from the appeal site. Accepting these plans would involve a fundamental change to the scheme which I am concerned would deprive those entitled to be consulted the opportunity to make a representation. Furthermore, the appeal process should not be used to evolve a scheme² which accepting these plans would do. Therefore, I have based my decision on the development which was before the Council when the application was determined.

Main Issue

10. The main issue relevant to this appeal is the effect of the proposal on the character and appearance of the host building and wider area.

Reasons

11. Malyons House is a single storey commercial building with a pitched roof and attached flat roof garage. It is situated in a corner plot at the junction of College Road and Malyons Road. The building is finished with an orange brick and has a pedestrian front door facing Malyons Road and a roller shutter garage door facing College Road.
12. The wider area predominantly comprises two storey residential properties with a variety of architectural styles and finishes. There are also a few small scale commercial units integrated within the area which include the appeal site and a dog grooming business on the opposite side of the road. The area has a predominantly residential character, with the small commercial units providing some variety within the street.

² Procedural Guide: Planning appeals – England paragraph 16.1

13. The replacement of the garage door with a shopfront and installation of the shallow access ramp would be appropriately proportioned to the host building and would be in keeping with its character and appearance. The development would also be unintrusive within the wider streetscene given its limited scale and would appear in keeping with the character and appearance of the area.
14. Whilst the plans and supporting documents contain limited information regarding the proposed materials, these could be secured by a suitably worded condition. This is the approach taken by the Council in its officer report and I see no reason to disagree with it.
15. The appeal proposal would be in keeping with the character and appearance of the host building and wider area. The appeal proposal would therefore comply with Policy SP 1 of the Local Development Framework Core Strategy (2011) and Policy EN1 of the Allocations and Development Management Plan (2015). These policies seek to ensure that development proposals are of a high-quality design that respond to the distinctive local character of the area.

Other Matters

16. Residents have raised a number of matters including the need for the shop, the effect of the shop on the wider settlement, the conversion having already taken place, concern regarding anti-social behaviour and requests to ensure the unit does not have extended opening times. However, these matters relate to the use of the site as a retail shop, which for reasons previously given, are outside the scope of this appeal. Concern regarding illuminated signage and advertisements has also been raised. However, neither has been proposed by the development before me.
17. Neighbours have also queried the need for the ramp in the proposed location, rather than the existing door. The appellant has explained in their supporting documentation that the ground level difference by the existing door is much greater, which appears to be the rationale for the location of the ramp. In any case, I have assessed the appeal on its own planning merits whereby I have found the proposal to be acceptable in relation to the main issue.
18. Concern has also been raised regarding the consultation process undertaken by the Council. However, this is a matter between the Council and residents rather than a matter for this appeal.

Conditions

19. I have considered the conditions suggested by the Council against the tests in the National Planning Policy Framework (the Framework) and the advice in Planning Practice Guidance. To ensure conditions meet the tests of the Framework, I have amended the wording of conditions where necessary.
20. The standard timescale condition for implementation and a plans compliance condition are imposed for the avoidance of doubt and in the interests of certainty.
21. I have imposed a condition requiring materials to be submitted for approval by the local planning authority. This is necessary to ensure the proposal will preserve the character and appearance of the host property and area.
22. A condition restricting construction hours is also considered necessary, in the interests of the living conditions of nearby neighbouring occupiers.

23. The Council has also suggested a condition requiring a construction method statement. However, considering the small scale of the construction work required and the location of the property set back from the public highway, I do not consider this condition to be reasonable or otherwise necessary.
24. The suggested condition relating to parking spaces is not relevant given the development is only limited to the elevational alterations and access ramp.
25. Given the limited scale of the development and as no external lighting is proposed, the suggested lighting plan condition is not necessary or relevant to the development.

Conclusion

26. The proposal would accord with the development plan as a whole, and there are no material considerations that indicate a decision should be made other than in accordance with it. Therefore, I conclude that the appeal should be allowed and planning permission be granted, subject to the conditions set out in the accompanying schedule.

C Housden

INSPECTOR

-- Schedule of 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:
 - M - BR8 7LT – 000100 C 03
 - M - BR8 7LT – 000101 C 03
 - M - BR8 7LT – 000102 C 02
 - TQRQM24129114557412
- 3) No development relating to the external façade of the building shall be carried out until details of the materials to be used in the construction of the external façade of the development hereby approved, are submitted to and approved in writing by the local planning authority. The works shall be carried out in accordance with the approved details.
- 4) Construction and demolition works shall take place only between Monday to Friday 08:00 hours to 18:00 hours, Saturday 08:00 to 13:00 hours and not at all on Sundays or Bank Holidays.

-- End of Schedule --