The Planning Inspectorate

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Your Ref: PL/2023/09367
Our Ref: APP/Y3940/W/24/3347261

13 November 2024

Dear Sir/Madam,

Town and Country Planning Act 1990
Appeal by Churchill Retirement Living Ltd
Site Address: The Pippin , Calne, Wiltshire, SN11 8RN

I enclose a copy of our Inspector's decision on the above appeal(s).

If you have queries or feedback about the decision or the way we handled the appeal(s), you should submit them using our "Feedback" webpage at https://www.gov.uk/government/organisations/planning-inspectorate/about/complaints-procedure.

If you do not have internet access please write to the Customer Quality Unit at the address above.

If you would prefer hard copies of our information on the right to challenge and our feedback procedure, please contact our Customer Service Team on 0303 444 5000.

Please note the Planning Inspectorate is not the administering body for High Court challenges. If you would like more information on the strictly enforced deadlines for challenging, or a copy of the forms for lodging a challenge, please contact the Administrative Court on 020 7947 6655.

The Planning Inspectorate cannot change or revoke the outcome in the attached decision. If you want to alter the outcome you should consider obtaining legal advice as only the High Court can quash this decision.

We are continually seeking ways to improve the quality of service we provide to our customers. As part of this commitment we are seeking feedback from those who use our service. It would be appreciated if you could take some time to complete this short survey, which should take no more than a few minutes complete:

https://www.surveymonkey.co.uk/r/Planning_inspectorate_customer_survey

Thank you in advance for taking the time to provide us with valuable feedback.

Yours sincerely,

Lauren Fongauffier
Lauren Fongauffier

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Where applicable, you can use the internet to submit documents, to see information and to check the progress of cases through GOV.UK. The address of the search page is - https://www.gov.uk/appeal-planning-inspectorate

The Planning Inspectorate

Appeal Decision

Site visit made on 23 October 2024

by Rachael Pipkin BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th November 2024

Appeal Ref: APP/Y3940/W/24/3347261
Orchard Lodge, The Pippin, Calne SN11 8RN

- 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 Churchill Retirement Living Ltd against the decision of Wiltshire Council.
- The application Ref is PL/2023/09367.
- The development proposed is Change of use of commercial unit 4 (Use Class E) to residential accommodation (Use Class C3).

Decision

1. The appeal is allowed and planning permission is granted for Change of use of commercial unit 4 (Use Class E) to residential accommodation (Use Class C3) at Orchard Lodge, The Pippin, Calne SN11 8RN in accordance with the terms of the application, Ref PL/2023/09367, 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 PA-200, PA-03-A, PA-107-D, PA-103-C and PA-108-E.

   3) The dwelling hereby permitted shall be occupied only by:

      i) a person aged 60 years or older

      ii) persons aged 55 or older living as part of a single household with the above person in (i)

      iii) persons aged 55 or older who were living as part of a single household with the person identified in (i) who has since died.

Preliminary Matters

2. One of the Council's reasons for refusal was that that insufficient detail had been provided about parking provision and how it related to the nature of the proposed occupation. The appellant has since confirmed it would agree to a condition restricting occupancy to older people which the Council has accepted would likely result in lower car ownership. On this basis, the Council no longer intends to defend this reason for refusal. I have proceeded on this basis.

3. The appellant provided a marketing statement and associated information as part of its appeal submission. This was not before the Council at the time it made its decision. The procedural guidance[1] on planning appeals explains that the appeal process should not be used to evolve a scheme, this is not the case

[1] Procedural Guide: Planning appeals – England (updated 17 September 2024)

here as the proposal has not changed. The marketing information was available to the Council and interested parties as part of the appeal submissions and they have had the opportunity to comment on this. I find no procedural unfairness has arisen. I have taken this information into account in my decision.

Main Issue

4. The main issue is the effect of the proposed development on the vitality and viability of the town centre.

Reasons

5. The appeal property, Unit 4, is a ground floor retail unit within a mixed-use development, comprising 39 apartments for older people and four retail units. The scheme was granted planning permission on appeal[2] in March 2021. Of the four retail units, three are vacant including the appeal property. The occupied unit is currently in use as a sales office for the apartments forming the rest of the development. According to the submitted marketing statement, the unit has been marketed since August 2023 on both a long-term and short-term lease for commercial uses compatible with the retirement living development.

6. Unit 4 is located within the south-east corner of the host building, fronting The Pippin highway to the east and an access road to the south, beyond which there is a public car park. The main pedestrian thoroughfare between Sainsburys, located on the opposite side of The Pippin, and the main shopping area, is Phelps Parade. Unit 4 is furthest from this route which, in combination with its elevated position in relation to the street and footpath, means it does not benefit from passing footfall. Moreover, the unit has no retail shopfront window. These factors make the unit less attractive to retailers which I note was the same conclusions drawn within the submitted marketing report.

7. There is evidence that in marketing Unit 4, these factors have been accounted for with the unit being offered at a lower rental than a retail unit, intended to attract an alternative occupant such as an office user. The permitted use of the unit, falling within Class E, makes it available for a number of different occupants although subject to certain use restrictions due to its relationship with housing for older people. This is a reasonable approach. Notwithstanding this, there has been limited interest and no formal offers received.

8. As a vacant unit the appeal property does not contribute to the vitality or viability of the town centre. The evidence indicates that there are other, more attractive options closer to the main shopping area, including the other units within the development which benefit from retail style shopfronts.

9. Residential uses are not incompatible with a town centre with specialist housing for different groups including older people, such as proposed here, being recognised as playing an important role in ensuring the vitality of town centres, as explained in the Planning Practice Guidance[3]. In the particular circumstances of this case, due to minimal physical changes to the building, the position of Unit 4 in relation to the main shopping area and pedestrian

[2] APP/Y3940/W/20/3246442
[3] Paragraph: 001 Reference ID: 2b-001-20190722

routes, and its ongoing vacancy, the change in use to a residential use would not harm the vitality or viability of the town centre.

10. I appreciate that in reaching his decision, the appeal Inspector identified that the four retail units within the town centre would contribute to economic benefits. He also removed permitted development rights to protect the units for retail purposes. However, the economic climate has changed since that decision with anecdotal evidence suggesting people are adopting different shopping habits post the Covid-19 pandemic. In any event, the Inspector made his decision based on the evidence before him at the time, as I am doing based on that provided to me.

11. I recognise the desire to encourage a greater mix of uses within the town centre, including start up retail uses and pop-up shops. However, marketing of the property has not generated any firm offers in this respect.

12. I conclude that the proposed development would not harm the vitality and viability of the town centre. Core Policy 38 of the Wiltshire Core Strategy 2015 relates to proposals for retail or leisure uses outside town centres. Saved Policy R2 of the North Wiltshire Local Plan 2006 concerns development within town centre secondary frontage areas and specifies uses to which the policy relates. This does not refer to residential development. Neither policy is directly relevant to the appeal proposal. However, both policies aim to support the vitality and viability of the town centre as set out in the supporting text and I find the scheme would not undermine those aims. I also find that the scheme would accord with the National Planning Policy Framework which seeks to ensure the vitality of town centres and recognises that residential development often plays a role in ensuring this.

Other Matter

13. The appeal site lies within the Calne Conservation Area and within the setting of a number of listed buildings on the High Street. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 require me to have special regard to the desirability of preserving a listed building or its setting. Section 72(1) of the same act requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Calne Conservation Area. Physical changes to the building would be limited to replacing the entrance opening for the commercial unit with a window. With minimal elevational changes to a modern building, the changes would have a neutral impact on these heritage assets.

Conditions

14. The Council has suggested conditions in the event the appeal were to be allowed. I have considered these and imposed them where they meet the tests set out in Paragraph 56 of the Framework. A condition specifying compliance with submitted drawings is necessary in the interests of certainty. I have imposed a condition restricting occupancy to older people, as they are likely to have lower levels of car ownership commensurate with the provision of parking on the site.

Conclusion

15. For the reasons set out above, the appeal is allowed.

Rachael Pipkin

INSPECTOR