

Ward Ottery St Mary

Reference 19/0509/FUL

Applicant Mrs K Grannell

Location 30 Mill Street Ottery St Mary EX11 1AD

Proposal Change of use on ground floor from part residential / part commercial to all residential and installation of timber window within existing timber surround



RECOMMENDATION: Approval subject to conditions



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| | | Committee Date: 9th July 2019 | |
| Ottery St Mary (Ottery St Mary) | 19/0509/FUL | Target 24.05.2019 | Date: |
| Applicant: | Mrs K Grannell | | |
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EXECUTIVE SUMMARY

This application is brought before Committee as the officer recommendation differs to the view of two ward members.

The proposal involves the change of use of an area of long vacant (believed to be since around 2000) commercial ground floor space at 30 Mill Street, within the designated Town Centre Shopping Area and Ottery St. Mary Conservation Area, to create additional living accommodation to that already existing at first and second floor levels within the building together with the installation of a replacement timber window in place of an existing display window in the principal Mill Street elevation.

The latter of these elements is considered to be in keeping with the character and appearance of the building and it is accepted that the proposed alterations would not detract from the character, appearance or heritage significance of the wider conservation area.

In relation to the change of use itself, under ordinary circumstances it would be necessary, in line with the relevant provisions of Strategy 32 of the adopted Local Plan, for the applicant to demonstrate that all options for the retention of the premises for commercial use have been explored without success, usually through an appropriately robust marketing exercise for a minimum period of 12 months.

Whilst there has been no such exercise carried out in this case, it is considered that this needs to be balanced against the commercial reality of the particular circumstances surrounding the premises. First, it is questionable whether it can be considered to provide 'current' employment land for the purposes of Strategy 32 given the length of time that it has been vacant. Secondly, the floor space is

extremely modest in area with no ancillary storage or other facilities available within the building, thereby of very limited appeal to any commercial operator. Thirdly, the premises are now in quite substandard condition and require considerable investment which it is anticipated would be difficult to recoup given the limited floor space.

As such, notwithstanding the location of the premises on the very edge of the Town Centre Shopping Area, in this case it is not thought necessary to insist upon the marketing exercise required by Strategy 32 to justify the proposed change of use to incorporate it within the existing residential accommodation. Given the history of the site it is not considered that the loss of the unit from commercial use would undermine the vitality or viability of the town centre and would not therefore be contrary to Strategies 24 or 32 of the Local Plan, Policy E9 of the Local Plan or Policy NP18 of the Neighbourhood Plan that seek to protect town centres and the retail/commercial benefits they provide.

The proposals have not prompted the submission of any representations from any interested third parties.

Approval of the development is therefore recommended.

CONSULTATIONS

Local Consultations

Parish/Town Council

Ottery St Mary Town Council does not support this application as it does not comply with the local Neighbourhood Plan, proposing a UPVC window in the conservation area and insufficient evidence that it has been marketed as a commercial property in a twelve month period.

Ottery St Mary Town - Cllr P Faithfull

This property is in my ward and my preliminary view, based on the information presently available to me is that it should be refused.

I have just been standing in Redferns Estate Agents, who are acting for this property. While there a potential buyer was asking about this property. The member of staff made it quite clear to the customer that there had been a lot of interest for this property for commercial use. I therefore recommend refusal for change of use.

These are my views based on the information presently available to me. I reserve the right to change my view in the event that further information becomes available to me.

Ottery St Mary - Cllr Vicky Johns

I have reviewed the planning application and my findings are as follows;

1. The application does not comply with the local neighbourhood plan.
2. The proposal of a uPVC window is not in keeping within the conservation area.

3. There is insufficient evidence that the building has been marketed as a commercial property within the last 12 month period. The loss of another shop front in Ottery town would be detrimental to the town as a whole.

Technical Consultations

Conservation

Support the timber window.

Other Representations

No third party representations have been received in respect of the application proposal.

PLANNING HISTORY

| Reference | Description | Decision | Date |
|------------------|--|--------------------------------|-------------|
| 18/2473/CPE | Certificate of lawfulness to establish the use of the property as wholly residential | Withdrawn | 18.03.2019 |
| 97/P0806 | Change Of Use To Taxi Office | Approval - standard time limit | 17.07.1997 |
| 86/P0135 | Change Of Use Of Hairdressing Salon To Office. | Approval - standard time limit | 04.03.1986 |

POLICIES

Adopted East Devon Local Plan 2013-2031 Policies

Strategy 6 (Development within Built-up Area Boundaries)

Strategy 24 (Development at Ottery St Mary)

Strategy 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings)

D1 (Design and Local Distinctiveness)

EN9 (Development Affecting a Designated Heritage Asset)

EN10 (Conservation Areas)

E9 (Town Centre Vitality and Shopping Areas)

Ottery St. Mary Neighbourhood Plan 2017 – 2031

NP18 (Supporting Ottery St. Mary as the Economic Focus for the Parish)

NP22 (Ottery St. Mary Conservation Area)

Government Planning Documents

NPPF (National Planning Policy Framework 2019)

Site Location and Description

30 Mill Street comprises a vacant two storey terraced premises incorporating former commercial ground floor space with residential accommodation at first floor level and within the roof space above. It is located close to Ottery St. Mary town centre on the edge of (but within) the designated Town Centre Shopping Area and just beyond the defined Primary Shopping Frontage. It is however within the designated Ottery St. Mary Conservation Area.

The principal Mill Street elevation of the building features a large ground floor level display window alongside a pedestrian entrance door with a sliding sash window above. The roof space has been converted to form two small bedrooms which are served by single roof lights in both the front and rear elevations.

The character of this part of Mill Street is mixed commercial and residential, albeit that there is more of the latter than the former towards the western end of the street and further from the town centre.

The last authorised use of the ground floor of the premises as a taxi office followed a grant of planning permission in 1997 (application 97/P0806 refers).

Proposed Development

The application proposal involves two principal elements, namely the change of use of the vacant former commercial ground floor space within the building to create additional living accommodation to the existing at first and second floor levels and the installation of a replacement timber window of slightly different design in place of the present display window.

The submitted elevation and section details of the proposed window show its installation within the existing retained timber frame with double glazed panes throughout. It would incorporate a trio of top-hung top/fan lights with the glazing beneath sub-divided into three panes, through the insertion of a pair of vertical glazing bars, in place of the present single pane window.

This itself represents a substitute proposal for the original scheme to install a PVCu-framed replacement window.

Other than the removal of a display shelf inside the window, no other internal alterations are envisaged.

The application follows the previous submission of an application for a certificate of lawfulness (ref. 18/2473/CPE) to establish the lawfulness of the use of the entire property as residential. However, in the light of officer concerns at the absence of sufficient evidence to establish the active use of the ground floor space for residential

accommodation purposes for the requisite time period of four years (considered in more detail below) and the subsequent position taken to the effect that a recommendation to grant a certificate would be unlikely to be forthcoming, the applicant's agent was advised that it would be more appropriate to seek a grant of planning permission for the change of use of the space instead.

The lawful development certificate application was therefore withdrawn and the current planning application submitted.

ANALYSIS

The proposal falls to be considered having regard to two main issues, namely the acceptability (or otherwise) of the change of use of the former commercial floor space to further residential accommodation in the context of the provisions of Strategy 24 (Development at Ottery St Mary), 32 (Resisting Loss of Employment, Retail and Community Sites and Buildings), Policy E9 (Town Centre Vitality and Shopping Areas) of the adopted Local Plan, Policy NP18 (Supporting Ottery St Mary As The Economic Focus For The Parish) of the 'made' Ottery St. Mary Neighbourhood Plan, and the impact of the proposed replacement window upon the character and appearance of the building and the overall significance, in heritage policy terms, of the surrounding conservation area in which it is located. Policies EN9 (Development Affecting a Designated Heritage Asset) and EN10 (Conservation Areas) are material in this regard.

Acceptability of the change of use

Policy E9 of the Local Plan contains provisions that only permit proposals for retail and non-retail uses which would add variety and increase activity and uses within the Town Centre Shopping Area provided, among other criteria, that the use would not undermine the shopping character and visual amenity, diversity, vitality or viability of the town centre and it can be clearly demonstrated that there is no longer a need for such uses and, in relation to this, that the building has been marketed for a minimum of 12 months at a realistic price without interest.

The latter of these is reflected among the four main criteria set out in Strategy 32. This requires that options for the retention of the premises for its current or similar use have been fully explored without success over the same period and there is a clear demonstration of surplus supply of land or provision in the locality. Its objective is to prevent change of use of current employment premises where it would harm business and employment opportunities in an area. In addition to this, Strategy 24 of the Local Plan and Policy NP18 of the Neighbourhood Plan seek to support town centres and retail/business operations and provision.

Until his passing in August 2018, the premises were in the ownership of the applicant's brother, who purchased them in 1993 and resided in the rear part of the ground floor and on the first and second floors. It is stated within the supporting particulars accompanying the application that the last commercial use of the remaining ground floor space was as the taxi office to which the planning permission granted in 1997, referred to above, related. However, it is understood that this use ceased around the

turn of the millennium since when there has been no active commercial use of the space.

Since this time, while it is stated that the 'commercial space was then occupied as part of the dwelling' this is not borne out by clear evidence, hence the reluctance to consider the grant of a certificate of lawfulness for the use of the whole building for residential purposes.

The facts as are known, and presented with the application, are summarised as follows.

In 2008, following complaints from neighbours and home visits conducted by the then owner's family doctor and Social services, the property was cleared of refuse by the Council's Environmental Health team. The former shop area was used at this time for domestic storage, including furniture and rubbish.

In 2009, after hospitalisation, the former owner was transferred to a residential home. Although unoccupied, the property remained full of domestic possessions with no notion that it was being used for any commercial purpose.

However, during late 2013/early 2014 minor alterations were made to the property, overseen by Social Services, to enable the owner to return to the property, where he lived until his passing in 2018, 'using the entire property as a purely residential dwelling'.

Following the owner's passing, it became known to the applicant that the premises were still registered as a mixed residential/commercial property and were subject to a business rate, albeit that it was subsequently established by enquiry that the latter had not been charged since at least 2009 because there was no business use of the property. It is understood that the business rating has since been removed.

However, in spite of detailed guidance provided by a local estate agency over the past year, there has been no active marketing exercise in relation to the premises. Indeed, there has never been any attempt to market the premises, even following the cessation of the ground floor commercial use some twenty or so years ago.

On the face of it therefore, in the absence of a marketing effort it could be concluded that the proposed loss of commercial floor space would be contrary to the key provisions of both Strategy 32 and Policy E9 of the Local Plan which presume against the loss of employment, retail and community uses that contribute towards the shopping character, amenity, vitality and viability of the town centre and the Town Centre Shopping Area in particular. Such a position is backed up by a recent appeal decision for 4 Gold Street (18/0054/COU) where an Inspector dismissed an appeal for the change of use of an office to a residential dwelling due to the lack of marketing.

It is thought however that this needs to be balanced in this case against the obvious reality of the situation with regard to the premises insofar as, notwithstanding the manner in which the former commercial floor space has been used over the post millennium period, it has not been in use for commercial purposes. The premises cannot reasonably be considered to be 'currently' providing employment, or indeed

any contribution as a service facility, to the wider function of the town centre for the provision of services and facilities in the broadest sense. They have not been in commercial use for what is likely the best part of twenty years and there is little evidence, on the basis of the considered views of the estate agency, that they would now generate any commercial market interest. This is based upon experience of marketing mixed use premises within the town and recognises factors such as the location of the building on the edge of the commercial centre of the town, the small commercial floor space area involved, poor access, the substandard condition of the premises and the shortage of footfall within this part of the town centre. In short, it is thought that it does not present a viable business opportunity. As such, the prospects of selling the premises as a commercial property at a sensible price are unrealistic.

Given the combination of the above factors, along with the fact that the building has not housed any 'current' employment, retail or community use for some considerable time, it is not thought that the reversion of the remaining floor space to further residential use would result in any material harm to business and employment opportunities in the town centre or any undermining effect upon its shopping character, visual amenity, diversity, vitality or viability, notwithstanding the absence of any marketing effort for the premises or its location (just) within the defined Town Centre Shopping Area. As such, it is considered that due to the specifics of the case insisting upon a 12 month marketing exercise is not necessary.

Impact from replacement display window

Turning to the impact of the proposed replacement display window upon the character and appearance of the building and the significance, in heritage policy terms, of the wider conservation area, it is considered that this would be acceptable.

The new window has been designed sympathetically for the size of the opening in which it would be installed while the intention to break up the expanse of glazing through the addition of top-hung fanlights and glazing bars is thought likely to result in a positive enhancement of the character and appearance of the building's principal elevation and that of the street scene and conservation area more broadly over the present large single pane window.

Reference to the use of PVCu materials for the window is slightly unclear insofar as, whilst the original intention was to install a PVCu-framed window in place of the existing timber display window, this was changed to a timber specification before the application was formally validated. In any case, the application proposes a timber window which is considered to be acceptable.

In this regard therefore, it is considered that this alteration would represent a benefit to this part of the conservation area and its broader significance.

Conclusion

In concluding, while the objections of the town council and members are duly acknowledged, in the light of the history of this site and its lack of retail/commercial use for in excess of 10 years, it is not thought that objection to the proposal could reasonably be justified.

It is not thought, on balance, necessary to for the applicant to demonstrate evidence of a minimum of 12 months marketing of the premises to satisfy the requirements of Strategy 32 and Policy E9 of the Local Plan as there would be no harm to the vitality and viability of the town centre given that the unit has not been used for retail/commercial purposes for over 10 years.

On balance therefore, in light of the specific circumstances of the case, it is not considered necessary to insist upon 12 months marketing and it is not considered that the proposal would harm the town centre contrary to Strategy 24 of the Local Plan or Policy NP18 of the Neighbourhood Plan.

In light of this, and given that a timber replacement window is proposed, the application is recommended for approval.

RECOMMENDATION

APPROVE subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
(Reason - To comply with section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).
2. The development hereby permitted shall be carried out in accordance with the approved plans listed at the end of this decision notice.
(Reason - For the avoidance of doubt.)

NOTE FOR APPLICANT

Informative:

In accordance with the aims of Article 35 of the Town and Country Planning (Development Management Procedure) (England) Order 2015 East Devon District Council works proactively with applicants to resolve all relevant planning concerns; however, in this case the application was deemed acceptable as submitted.

Plans relating to this application:

| | | |
|----------------------------------|----------------------|----------|
| 342/01 Location/block plan | - Combined Plans | 12.03.19 |
| 342/03 | Proposed Floor Plans | 12.03.19 |
| 342/04A Elevations | - Combined Plans | 29.03.19 |
| 342/05 Window | Proposed Elevation | 28.03.19 |

342/06 Window Construction Details or 28.03.19
Drawings

List of Background Papers

Application file, consultations and policy documents referred to in the report.