



Appeal Decision

Site visit made on 14 January 2025

by K Stephens BSc (Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 February 2025

Appeal Ref: APP/X1925/W/24/3345680

3 High Street, Baldock, Hertfordshire SG7 6AZ

- 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 Basra of Oakmont Estates Ltd against the decision of North Herts Council.
 - The application Ref is 24/00106/FP.
 - The development proposed is conversion of part ground floor from commercial use (Class E) to residential use to create a single dwelling.
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Decision

1. The appeal is allowed and planning permission is granted for the conversion of part ground floor from commercial use (Class E) to residential use to create a single dwelling at 3 High Street, Baldock, Hertfordshire SG7 6AZ in accordance with the terms of the application, Ref 24/00106/FP, 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 drawing nos. Location Plan; 60 (Location Plan & Existing and Proposed Site Plan); and 64E (Proposed Ground Floor and Elevations).
 - 3) No development shall take place until a scheme for protecting the proposed dwelling from noise from road traffic has been submitted to and approved in writing by the local planning authority. The scheme shall be based on the recommendations identified in the Anglia Consultants Ltd report (Ref: A1662) dated January 2024. The dwelling shall not be occupied until the approved scheme has been implemented in accordance with the agreed details, and the approved measures shall be retained thereafter in accordance with those details.

Preliminary Matters

2. During the course of the appeal a revised National Planning Policy Framework (the Framework) was published in December 2024 that replaces the previous version of December 2023. However, as any policies in the Framework that are material to this decision have not fundamentally changed, I am satisfied that neither party would be prejudiced by my consideration of the revised Framework in reaching my decision.
3. As the proposal relates to a listed building within a conservation area, in considering whether to grant planning permission I have had special regard to

section 66(1) and paid special attention to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act).

Background

4. The appeal site comprises part of a Grade II listed building known as 3 High Street¹. It was a bank, but the building has been vacant since the bank closed in 2018. Planning permission and listed building consent² were granted to change the use of the building, with associated internal and external alterations, to create 5 flats and to change part of the ground floor to Class A1³ use.
5. In 2023 planning permission was refused to change part of the ground floor from a commercial use to a residential flat. However, the Council granted listed building consent⁴ for the necessary internal alterations.
6. The application the subject of this appeal was submitted with a Noise Survey to overcome some of the previous concerns. Following a period of marketing as a retail/commercial premises, the application seeks to change part of the ground floor of the building into a 2-bedroom residential unit.

Main Issue

7. The main issue in this appeal is the effect of the proposed residential development on the vitality and viability of Baldock town centre and its Secondary Shopping Frontage.

Reasons

8. The appeal site is located within Baldock town centre and Conservation Area. Most of the building has been converted to flats, but I saw that the part of the ground floor intended for the proposed commercial use (and now as a residential unit in this appeal) remains empty and the internal works unfinished.
9. The building forms part of a terrace of different buildings that line the wide High Street. There is a convenience store immediately to one side and a butchers the other. There were other shops and commercial premises along High Street, with a large supermarket at the far end. The building is also close to the junction with Hitchin Street and Whitehorse Street in the centre of the town, which also had an assortment of businesses and shops.
10. The site is situated within Baldock's Secondary Shopping Frontage identified in Policy ETC5 of the North Hertfordshire Local Plan (the Local Plan). In these frontages, the policy lists the uses that will be granted at ground floor level. There is no dispute between the parties that the proposed residential use is not one of the uses listed in part a) and is not a 'town centre' use for the purposes of part b). Hence the proposal would be contrary to Policy ETC5.
11. It is clear from the supporting policy text that the purpose of the policy is to maintain the retail function of these frontages and to bring interest and vitality to the towns.

¹ National Heritage List for England: list entry number 1102096

² LPA refs; 18/ 0185/FP and 18/01851/LBC granted 15 and 16 October 2018 respectively.

³ Class A1 was a retail shop use under The Town and Country Planning (Use Classes) Order 1987 (as amended). The Use Classes Order was amended in 2020. It revoked a number of classes and introduced a new Class E 'Commercial, business and service', which includes the previous use classes for shops (A1 Class), financial and professional services (A2), restaurants and cafes (A3) and office and other business uses (B1).

⁴ LPA ref: 23/02351/FP refused and 23/02352/LBC granted 12 December 2023.

However, for Secondary Shopping Frontages supporting paragraph 5.24 states that the policy is more flexible to allow a range of uses based on their contribution to vitality and viability and their ability to attract people to the centre. Paragraph 5.25 goes on to explain that where a shop unit has been vacant for an extended period of time, specified as normally at least one year, documentary evidence should show that all reasonable attempts to sell or let the premises for the preferred use(s) as set out in part a) have failed.

12. The unit has been vacant since 2018. Since July 2020 part of the ground floor has been marketed as a commercial and retail unit, with a combined retail and basement floor area of about 77 sqm, so when the application was submitted it had already been marketed for some three and a half years, in excess of the Council's suggested 1 year. Some of that time, however, would have been during the Covid-19 pandemic when interest may have been less due to the various restrictions that were in place during 2020-2021. On my visit I saw there was still a board prominently displayed on the building advertising it as a 'retail unit to let'. The wording on the board appears to have changed slightly from the images in the appellant's submitted marketing documentation where it advertised 'All enquiries – To Let'. The submitted marketing evidence indicates the unit was also marketed on line, and sales particulars emailed to those on the mailing list and to others who enquired.
13. Being an old bank building, it does not have a traditional shopfront. Instead it has a grander façade with segmented windows either side of the central arched doorway. This reduces visibility into the building and might limit its attractiveness for a retail premises or café for example.
14. The Council considers the marketing efforts have been insufficient but does not specify what more it would have wanted to be done. The Council does, however, acknowledge that the unit has constraints that would limit its appeal for some other uses. It is clear from the marketing evidence that there have been some expressions of interest from a variety of prospective tenants but the unit was deemed unsuitable for their needs for a variety of reasons, such as the proximity of the other residential flats in the building caused concerns for cafes, and the limited floor area and lack of dedicated parking was a negative factor for some businesses. Being a listed building, any significant alterations to the elevation, such as the installation of shopfront windows, would likely be met with resistance from the Council adding further constraints.
15. Taking into account the peculiarities and physical constraints on the unit that might make some commercial/retail uses less attractive, together with the length of time the property has been vacant, and the length of time the property has been marketed suggests to me that there has been sufficient time and efforts to have explored the market for the purposes of Policy ETC5.
16. Section 7 of the Framework seeks to ensure the vitality of town centres and promote their long-term vitality and viability in a way that can respond to rapid changes in retail and leisure industries and allows a suitable mix of uses, including housing (paragraph 90a)). Framework paragraph 90f) also recognises that residential development often plays an important role in ensuring the vitality of centres, and policies can encourage residential development on appropriate sites.

17. Whilst a residential use may have more limited activity when compared to a commercial/retail use, there would still be comings and goings from residents and visitors, and at night after normal shop opening hours there would be lights on and activity that would add to the diversity of uses and vitality of the High Street. I saw a number of other residential properties in traditional buildings along the High Street and their mix amongst the shops and businesses was part of the charm of this historic street in the centre of Baldock.
18. The vacant premises has not contributed to the vitality or activity of the High Street or Baldock since 2018. With existing retail premises immediately adjacent, a zebra crossing in front of the building and commercial premises on the other side of High Street, coupled with designated on-street public parking nearby, I saw that Baldock has a bustle even with the appeal site being vacant and not in active retail/commercial use, albeit my visit was a snap shot in time.
19. I am satisfied, from the evidence and my observations, that changing the use of the remainder of the ground floor of the building to a residential flat would not adversely affect the vitality of Baldock town centre and would not undermine the retail function of the designated Secondary Shopping Frontage in this instance.

Other Matters

20. The site is within Baldock Conservation Area. It has a mixture of buildings of different ages, design and uses, such that the character and appearance of the conservation area, and thus its special interest and significance, are in part derived from the architectural richness and variety of its historic buildings that reflect the economic and social development and growth of Baldock over time. The appeal site is a prominent and important component of the street scene and with its heritage merit as well as its aesthetic charm positively contributes to the character and appearance of the conservation area as a whole, and thereby to its significance as a designated heritage asset.
21. The change of use of the remaining part of the ground floor to a residential use, which the Council acknowledges would not be out of character and where there are wholly residential buildings nearby, would involve minimal external alterations. In the context of the street scene, the character and appearance of the conservation area would be preserved and the significance of the conservation area would not be harmed. The Council has raised no concerns in this regard either.

Conditions

22. Without prejudice, the Council has suggested 3 conditions should the appeal be allowed, which I have considered against the statutory tests. Two are standard conditions to limit the lifespan of the planning permission and the other to specify the approved plans for the avoidance of doubt and in the interests of proper planning. The third condition relates to implementing the recommendations in the submitted Noise Survey to overcome previous concerns and to ensure suitable living conditions for future occupants.

Conclusion

23. There would be some conflict with Local Plan Policy ETC5 with the loss of a town centre use. However, the unit has been vacant for a considerable length of time and the lengthy marketing period has failed to find a retail/commercial occupier for

the unit. The building is a Grade II listed building located in a conservation area and the residential proposal would bring a long-vacant unit and heritage asset back into an active use. The proposal would be a flexible application of the policy that would help maintain the vitality of Baldock's town centre, something the Framework encourages in appropriate locations, without undermining the function of Baldock's Secondary Shopping Frontage. Overall, I find there are material considerations that outweigh the policy conflict in this instance.

24. For the reasons given above the appeal should be allowed.

K. Stephens
INSPECTOR