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# Appeal Decision

Site visit made on 3 June 2015

by **H Lock BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 16 June 2015

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**Appeal Ref: APP/J1535/W/15/3004190**  
**134 High Street, ONGAR, Essex, CM5 9JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr P Hayes against the decision of Epping Forest District Council.
  - The application Ref. EPF/2358/14, dated 1 October 2014, was refused by notice dated 5 January 2015.
  - The development proposed is change of use from retail (A1) to estate agency (Use Class A2).
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## Decision

1. The appeal is allowed and planning permission is granted for the change of use from retail (A1) to estate agency (Use Class A2) at 134 High Street, Ongar, Essex, CM5 9JH, in accordance with the terms of the application, Ref. EPF/2358/14, dated 1 October 2014, and the plans submitted with it, 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 the following approved plans: 14-050/01; 14-050/02; and 14-050/03.

## Main Issue

2. The main issue is the effect of the proposal on the retail function of the High Street, and the vitality and viability of the town centre.

## Reasons

3. The appeal premises is a vacant former retail unit set within Ongar High Street, which comprises a range of ground-floor commercial uses for its length, and some first-floor residential units and dwellings to the rear. The site is also located within a designated Key Retail Frontage within the defined Ongar Town Centre, as shown in the Epping Forest District Local Plan Alterations 2006 (LP).
  4. In order to maintain the vitality and viability of the main town centres in the district, LP Policy TC3 advises that within such centres, subject to certain criteria, the Council will permit new retail and other town centre uses that make the centres attractive and useful places to shop, work and visit, but that proposals that could have a detrimental impact upon the vitality and viability of
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the centres will be refused. LP Policy TC4 supports the provision of non-retail uses at ground floor level within key retail frontages provided the resulting non-retail frontage would not exceed 30%, or result in more than two adjacent non-retail uses. In this case, although the appeal premises is next to another A2 use, they would sit between retail units.

5. There is disagreement between the parties as to the proportion of non-retail units within the Key Retail Frontages, with the appellant suggesting compliance with LP Policy TC4. At the time of the appeal site visit, I could not corroborate the findings of either party, but on numbers alone (rather than frontage metres, as used by the Council) the proportion of non-retail uses within the key frontages appeared to be in excess of 30%.
6. The aims of the Council's policies to support the vitality and viability of its town centres is consistent with national policy, but the policies are less flexible in their application. The National Planning Policy Framework (the Framework) encourages competitive town centre environments, and seeks to include a wider range of uses in centres, including retail but also leisure, commercial, office, tourism, cultural, community and residential development.
7. In addition, since the appeal was lodged, the government has introduced new permitted development rights to reduce the number of development types which are required to go through the full planning process. A stated purpose of introducing such legislation is to support mixed and varied high streets by allowing, for example, more change of use between shops and financial and professional services<sup>1</sup>. There is no suggestion that express planning permission is not required for the appeal proposal, but the change in legislation is a further indicator of the national approach to town centre development.
8. In this context, I find that the specific criteria of LP Policy TC4 is outweighed by more up-to-date national policy and objectives. On the basis of the information before me, there is little evidence of unit vacancy in the High Street, which has a range of uses typical for a town centre, all of which contribute to maintaining its vitality. The appeal unit remaining vacant would not help to sustain a viable centre. I note the concerns of the Council and some local people regarding the robustness of the marketing undertaken in advance of the application, but in the absence of any substantive evidence to the contrary I have no reason to doubt its reliability.
9. I therefore conclude that the proposed change of use would not undermine the retail function of the High Street, and finding a new use for a vacant building would support the vitality and viability of the town centre. This would accord with the objectives set out in the Framework, and the aims of LP Policies TC3 and TC4, if not all of their specific criteria.

### **Other Matters**

10. The appeal premises is a Grade II listed building situated in the Chipping Ongar Conservation Area. No physical changes to the fabric are proposed in this submission, and as such the proposal would have a neutral impact on the historic building and its setting. However, finding a productive use for these vacant premises would be beneficial to its long-term maintenance, and the use

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<sup>1</sup> Written statement to Parliament - Planning update March 2015, delivered 25 March 2015

would reinforce the active frontage, thereby preserving the character and appearance of the conservation area.

**Conditions**

11. In addition to the standard time limit, for the avoidance of doubt and in the interests of proper planning I also impose a condition specifying the approved plans. The original officer report included a recommended condition requiring the retention of the existing glazed shop front for display purposes, although this has not been reiterated at the appeal stage. However, I am not convinced that such a condition would meet the tests set out in the Framework, in that it is not necessary, is not precise or therefore enforceable. Drawing no. 14-050/02 indicates a window display, and no physical changes to the listed building are proposed in this appeal.

**Conclusion**

12. For the above reasons, I conclude that the appeal should be allowed.

*Hilary Lock*

INSPECTOR