YORKSHIRE DALES NATIONAL PARK AUTHORITY

Committee: Planning

Date: 23 April 2024

Applicant: Ms K Wood

Parish: Sedbergh

Officer: Mark Williams

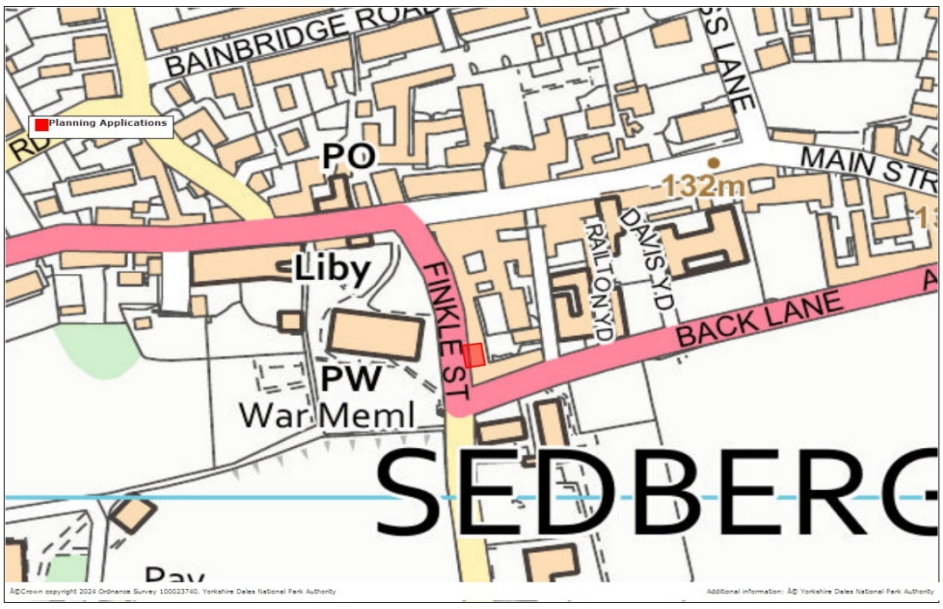
Application No: S/03/530B

Site Address: 9, Finkle Street, Sedbergh, LA10 5BZ

Proposal: Full planning permission for change of use of the commercial element of the building from Class E to Class C3 (dwellinghouse) in association with the remainder of the property

PURPOSE OF REPORT

1. That Members APPROVE planning permission for the above development in accordance with the recommendations below.



REASON FOR COMMITTEE CONSIDERATION

2. This application is reported to Committee for the following reason: the Parish Council recommendation is contrary to the decision which the Head of Development Management proposes to take.

APPLICATION SITE

3. The application site relates to a small single-storey lean-to extension at No. 9 Finkle Street in the centre of Sedbergh. The lean-to is attached to the gable of a 2-storey building. Together they were formerly in commercial use (latterly as a dentists' surgery) but the 2-storey element has been converted into a 2-bed dwelling in accordance with planning permission Ref S/03/530. That permission is subject to a s106 agreement, restricting occupation to local occupancy only.

4. The lean-to element has a display window ranged along the front elevation next to the front door. A large timber planter sits in front of the display window. The whole building sits behind a narrow pavement, leading from Main Street to Back Lane.

5. The site lies within the Sedbergh Conservation Area and within a High Street Frontage, the latter defined for the purposes of Local Plan Policy BE7.

6. The last commercial use as a dentists' surgery ceased in around 2012, since when this part of the building has been left vacant.

PROPOSAL

7. It is proposed to convert this part of the building from a commercial use (Class E) to form part of the adjoining dwelling (Class C3). This would be facilitated simply by opening up an internal doorway. The space would then form an additional living room on the ground floor. There would be no external alterations to the building.

RELEVANT PLANNING HISTORY

8. The following applications are relevant:

S/03/530 - full planning permission for change of use from dental surgery to A1 retail premises with flat at first floor level. Approved - Section 106 11/07/2014

(N.B. The plans approved under this permission show a 2-bed dwelling over two floors, with retail space in the lean-to extension. It would appear that the description of the development was not change to reflect the amended plans which were approved).

S/03/530A - full planning permission for change of use of commercial element of the building from Class A1 (retail) to Class C3 (dwellinghouse) in association with the remainder of the property. Refused 30/08/2019.

Reason for refusal:

'In the opinion of the Local Planning Authority the applicant has not demonstrated through marketing or otherwise that the site is commercially unviable in terms of location or through a lack of need and the loss of the small retail unit from the designated High Street Service Frontage would reduce the availability of small business premises which would have a detrimental impact on the retail service role and community vitality of Sedbergh as a Local Service Centre contrary to Yorkshire Dales Local Plan (2015-2030) policies SP2, SP3, SP4, BE5, BE7 and L1 and the National Planning Policy Framework (2019).'

CONSULTATIONS

9. The comments of statutory and non-statutory consultees are summarized below:

Highways No objections to proposed development as it will not have a material effect on existing highway conditions nor will it increase the flood risk on the site or elsewhere.

Sedbergh PC "Members wish to strongly object to the application as they feel that the minimum threshold for meaningful advertisement of the property has not been met. The online advertisement is only on one portal and is extremely minimal / token in nature. By coincidence in the same council meeting Members welcomed the Head of Branch Development for the Newcastle Building Society, who gave a short presentation on a potential branch in Sedbergh, the issue being finding a suitable small premises or shared space. The premises on Finkle street was mentioned and it was acknowledged that it may offer an appropriate base for them to consider further. To allow the property to convert to residential would continue the erosion of small business venues in the central hub of Sedbergh, it probably would fill fairly quickly if that was what the applicant wanted and chose to properly advertise the opportunity."

PUBLIC RESPONSES

10. Public responses: Advertised by site notice. Expiry date: 28th March 2024. No responses received.

ASSESSMENT

Key Issues:

- Principle of development
- Local Occupancy

- Residential amenity
- Conservation Area
- Nature Recovery
- Sustainability
- Parish Council comments
- Equality Act

PRINCIPLE OF DEVELOPMENT

11. Para 90 (a) of the NPPF states that planning policies should define a network and hierarchy of town centres and promote their long-term vitality and viability. Clause (f) of para 90 goes on to state that planning policies should recognise that residential development often plays an important role in ensuring the vitality of centres and should encourage residential development on appropriate sites.

12. The site is within a High Street frontage, as defined for the purposes of Yorkshire Dales Local Plan Policy BE5 which seeks to safeguard high streets as the main places where communities and visitors shop and access services. The policy requires that proposals that would result in the loss of a retail use should be tested against Policy BE7 (Safeguarding Employment uses). Policy BE7 in turn states that development that would lead to the loss of existing business land or buildings will not be permitted unless, inter alia, the loss would be at a scale that causes no significant harm to community vitality or Local Plan employment objectives.

13. The justification to Policy BE7 (para 3.49) states that: 'There is an issue of proportionality with this policy. It should not prevent the ebb and flow of small scale business where this is not harmful to the economic vitality of the area. For minor employment or business uses below five jobs the National Park Authority will not normally intervene in the principle of the loss of employment, unless the use of the site is considered to be particularly difficult to replace or it offers valuable business diversity and there is some likelihood of the use being required again in the future'.

14. Due to the very limited floorspace involved (only 15sqm) it is likely that the former surgery employed no more than two people, and certainly fewer than the 5-employee threshold cited in para 3.49.

15. A similar application (Ref S/03/530A) was refused in 2019 as it was considered that efforts to market the property for commercial use were insufficient, contrary to the requirements of Policy BE7, a criticism echoed by the Parish Council. Since then the property has been on the market for 4 years, with a local estate agents, Piell &

Co, and on Zoopla. Little interest has been shown, the property being considered both too small and too distant from the town centre to be commercially attractive.

16. It is therefore considered that the loss of this retail employment space meets the requirements of Policy BE7 and would not harm the economic vitality of Sedbergh. According to para 3.49 of the Local Plan, as this commercial space would have generated fewer than five jobs, it is not a case where the National Park Authority would normally intervene.

LOCAL OCCUPANCY

17. The proposal is to change the use of this space so that it forms part of the dwelling approved next door under planning permission Ref S/03/530A. That permission is subject to a s106 agreement, restricting occupancy to local occupancy only. It is thererefore necessary that occupation of this floorspace is similarly restricted.

18. Due to its very limited size this room could not be occupied as an independent dwelling, but simply as additional livng space for the existing dwelling next door. Nevertheless it is considered prudent to restrict this arrangement by means of a planning condition. In this way the space can only be occupied as part of a dwelling wihch is subject to a local ocuapncy restriction.

RESIDENTIAL AMENITY

19. Local Plan Policy SP4 (Development quality) requires all development proposals to respect the amenities of neighbours.

20. Finkle Street contains a mix of commercial and residential properties. The proposed development involves the expansion of an existing dwelling. The change of use of this part of the building from commercial to residential would be likely to have a minor beneficial impact on residential neighbours in line with Policy SP4.

CONSERVATION AREA

21. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 places a duty on planning authorities in that: ‘special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area’ when it considers proposals for development in the Conservation Area.

22. The proposed development would not lead to any physical changes to the building and so would have a neutral impact on the appearance of the Conservation Area. This part of Finkle Street is characterised by a mix of commercial and residential uses and so the proposed change from commercial to residential use would not harm the character of this part of the Conservation Area.

NATURE RECOVERY

23. Policy W1 requires that adequate protection is afforded to protected species. Policy W2 requires that proposals provide proportionate enhancements to biodiversity relative to the type of development being proposed.

24. The proposed development relates to the change of use of a small part of a building. No operational development would be involved and as such the proposed development would have a neutral impact on nature recovery.

SUSTAINABILITY

25. The application site lies in the centre of Sedbergh, a Local Service Centre as defined for the purposes of Local Plan Policy SP3 (Spatial Strategy). Such settlements are identified as the most appropriate sites for development, in particular housing. The proposed development involves the enlargement of an existing dwelling in sustainable location and as such is considered to represent sustainable development.

PARISH COUNCIL COMMENTS

26. The Parish Council has a strong objection to the proposed development, based on the perceived lack of a meaningful marketing exercise. These criticisms were put to the applicant's agent who has responded as follows:

> "Peill and Co are a local reputable company with commercial experience. The property has been marketed on their own site, a national site, Zoopla and electronic and postal mailing lists. This is far beyond their suggested one portal and beyond 'token'.
>
> This level of marketing is exactly what would be expected, and required by Policy BE7, even though there is actually no need for marketing evidence at all for a property of this size. The owners have spent money in decorating, and replacing window glass to make it more marketable. They have actively tried to sell or let it to no avail.
>
> Their suggestion that a building society would be interested in the space is simply conjecture. The reality of such a very small unit, with a narrow pedestrian frontage, is not where they are likely to want to locate to. Had they been interested, they would have been able to view the property before now. No such interest has been expressed.

The property has been on the market for 4 years, longer with a previous seller, and there has been no interest. There is simply no demand for a unit of this nature in current market conditions. Any hopes that a buyer may emerge in the future was the basis of the previous refusal and has borne no fruit. Towns are changing, and retails areas are reducing. This site on the very edge of the retail area is simply not of a suitable size or place to meet the reduced demand. And it serves no employment or economic purpose for the retail area or town vitality, as evidenced by the fact it has been empty for years. even if it were functional, its small size mean it would only provide a very small economic or employment function, compared to what remains of the retail area of Sedbergh. There is plenty of remaining retail area, and even other available units to meet demand, if needed."

27. It is considered that the agents have given a reasonable response to the objections of the Parish Council and that the marketing effort has been sufficient to overcome the reasons for the refusal of application Ref S/03/530A.

28. In any event, as the agent states, para 3.49 of the Local Plan, justifying Policy BE7, suggests a proportionate response in such cases, suggesting that business uses employing fewer than five jobs can be lost as part of the 'ebb and flow' of small scale business use, where the Authority would not normally intervene.

EQUALITY ACT

29. The Authority has a duty under s.149 of the Equality Act 2010 to have regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant characteristic and persons who do not share it. The relevant characteristics are: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation.

30. It is considered that there are no overt reasons why this proposal would affect anyone with the protected characteristics such that the application should be permitted or refused on equality grounds.

CONCLUSION

31. The proposed development would result in an extended dwelling in a sustainable town centre location. Having regard to Policy BE7 and para 3.49 of the Local Plan, it is considered that the proposed development is of such a scale that it would not harm the economic vitality of Sedbergh.

RECOMMENDATION

32. It is recommended that permission is GRANTED subject to a S106 agreement to secure local occupancy and conditions including the following:

    Time limit

    Approved plans

    Room to be occupied only in conjunction with adjacent dwelling and not as an independent dwelling

    Removal of permitted development rights for alterations/extensions to a dwellinghouse