



---

# Appeal Decision

Site visit made on 22 April 2013

**by Frances Mahoney DipTP MRTPI IHBC**

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

**Decision date: 24 April 2013**

---

**Appeal Ref: APP/E3525/A/12/2184484**  
**28-28a Cornhill, Bury St Edmunds IP33 1DY**

- 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 Unex (No 1) Limited against the decision of St Edmundsbury Borough Council.
  - The application Ref SE/12/0844/FULCA, dated 14 June 2012, was refused by notice dated 28 August 2012.
  - The development proposed is a change of use from Class A1 to Class A3 and Class A4.
- 

## Decision

1. The appeal is allowed and planning permission is granted for a change of use from Class A1 to Class A3 and Class A4 at 28-28a Cornhill, Bury St Edmunds IP33 1DY in accordance with the terms of the application, Ref SE/12/0844/FULCA, dated 14 June 2012, subject to the following conditions:
  - 1) The development hereby permitted shall be begun not later than 3 years from the date of this permission.
  - 2) Prior to the use hereby permitted commencing details of any extraction system, to include noise and odour control measures, shall be submitted to, and approved in writing by the local planning authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
  - 3) Prior to the use hereby permitted commencing details of any external plant, to include noise control measures, shall be submitted to, and approved in writing by the local planning authority. All equipment installed as part of the scheme shall thereafter be operated and maintained in accordance with the manufacturer's instructions.
  - 4) The use hereby permitted shall be implemented on the basis of the following approved plan: Location plan 212.OS.A.001.

## Procedural matters

2. There was some confusion over the address of the appeal site. However, from my site visit it is clear the address as set out in the bullet points above is the correct one.
3. For the avoidance of doubt this appeal deals solely with the proposed change of use of the building. The plan showing a layout for the ground and first floors set out as a restaurant is purely indicative. However, it does suggest how such

a use could be accommodated within the building and I shall deal with it accordingly.

### **Main Issue**

4. The appeal property is located in a prominent town centre location within the conservation area. It is common ground between the parties that the proposed change of use would ensure the re-use of premises, which have been empty for some time, within a part of the town centre where non-retail uses are not prevalent. In this way the vitality and viability of this primary shopping area would be preserved. This would be in accordance with the terms of the Forest Heath & St Edmundsbury Local Plan (LP) Policy TCR1. I have no reason to disagree.
5. In addition, the proposed non-retail use is not uncommon within the wider conservation area. It would contribute to the characteristic mix of town centre uses in the historic core of this lively market town. In this way the character of the conservation area would be preserved.
6. Therefore, the essence of the Council's objection to the proposal is that the change of use would involve works and alterations to the fabric of the Grade II listed building. Other than the indicative layout plan no firm information has been submitted in relation to this aspect of the scheme sufficient to assess the impact on the fabric of the listed building.
7. The appellant company consider that the details would be dependant on the nature of the end user of the Class A3/A4 premises. Changes to the listed building could be controlled by condition, with the need to gain Listed Building Consent remaining a prerequisite.
8. Taking account of the above factors I consider the main issue is the effect of the proposal on the special architectural and historic interest of the listed building.

### **Reasons**

9. No 28/28a is a prominent early 18<sup>th</sup> Century building of quality, standing at an important corner location on the approach to the medieval market place. The shop interior has been almost entirely opened out on the ground floor divided by modern partitions to create stock and changing rooms. The first floor is divided into two distinct spaces which are mutually accessible via a central flat roof link. The main area of interest on the first floor is the exposed framing and upper joists giving a view up into the roof of the northern element of the building.
10. It is reasonable to assume that the proposed change of use of the building to a restaurant and bar would involve some alterations. The indicative layout plan bears this out. An extraction system to a kitchen space, whether on the ground or first floors, would need to be accommodated. The central flat roof area does offer the opportunity for the discrete accommodation of such external plant. It already accommodates existing large external air conditioning units and an extraction system venting out from one of the old stock rooms.
11. In this instance it is the level of detail of such works required at this stage which is in dispute. Paragraph 128 of the National Planning Policy Framework

(The Framework) sets out that the level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on that significance.

12. The significance of this building centres on the quality of the exterior of the building; the prominence of its location within the confines of the Market Place; and the contribution it makes to the vitality of the central area of commerce and conservation area. At present the building's empty shop windows and dull inactive interior lacks any sense of the animation and energy of the busy town centre and market place. In its vacant state it significantly diminishes the attraction of this part of the shopping area and the character of the conservation area.
13. The proposal would offer a further option to bring the building back into use over and above its existing use class. Any alterations and/or works to the listed building required to achieve a conversion to the proposed use could be adequately dealt with by means of conditions and/or would require listed building consent. In this way any changes would remain within the control of the Council.
14. In conclusion, the appeal proposal offers the opportunity to bring the listed building back into use; making a positive contribution to the viability and vitality of the town centre; supporting sustainable economic growth; whilst safeguarding the special architectural and historic interest of the building and the character of the conservation area. The level of detail submitted as part of this appeal is sufficient and proportionate to understand the potential impact of the proposal on the significance of the building. In this way the terms of LP Policy HC1 and the Framework would not be compromised.

### **Conditions**

15. I have considered the conditions suggested by the Council in accordance with the guidance given in Circular 11/95 *The Use of Conditions in Planning Permissions*. Of the conditions for which the Council has provided a suggested wording, I have amended them where necessary to follow this guidance. In the absence of full details of some elements of the scheme I intend to impose conditions to safeguard the significance of the listed building. To this end conditions in respect of details of the following will be imposed; extraction systems and external plant.
16. In addition, for the avoidance of doubt and in the interests of proper planning, I shall impose a condition requiring that the use is carried out on the basis of the approved plan.
17. The Council has requested a condition relating to the restriction of hours of use for deliveries from the rear yard of the premises. The appeal site lies within the primary shopping area and no case has been presented as to why such a restriction is appropriate. The yard is bounded by other commercial premises which also seem to take access from the yard. In these circumstances such a condition is not reasonable.

*Frances Mahoney*

Inspector

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer

Services Department:

Telephone: 0870 333 1181

Fax: 01793 414926

Textphone: 0800 015 0516

E-mail: [customers@english-heritage.org.uk](mailto:customers@english-heritage.org.uk)