
Appeal Decision

Site visit made on 8 November 2016

by J Flack BA Solicitor

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

Decision date: 21 November 2016

Appeal Ref: APP/G5180/W/16/3156243

27 High Street, Green Street Green, Orpington, Kent BR6 6BG

- 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 James Johnstone against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/15/04145/FULL2, dated 23 September 2015, was refused by notice dated 16 June 2016.
 - The development proposed is change of use from A1 to mixed use A1 – Sui Generis.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue is the effect of the proposal on the safety and functioning of the highway.

Reasons

3. No 27 High Street lies within a short parade of two storey properties at 23 to 37 High Street (the appeal parade). The properties comprise retail and other commercial uses at ground floor level and residential accommodation above. The appellant states that until a few years ago, a nearby unit was used for car sales, but no such use is now apparent within the appeal parade or nearby.
4. Adjoining No 23 is two storey medical centre. Parking is provided to this by way of a shallow forecourt of a single vehicle depth, which is served by a dedicated footway crossover. The appeal parade also has a forecourt area of somewhat greater depth, but it appears sufficient only to accommodate two very small cars without encroachment onto the footway. The width of forecourt in front of each unit is just sufficient to accommodate two cars. The forecourt and footway are distinguished by different surface treatments, but there is no wall or other barrier between them, nor are there any marked bays or other markings within the forecourt. I also noted that the footway appears well-used, as one would expect in a predominantly retail length of street, but also that it is quite narrow.
5. I saw that No 23 is currently in use as a florist, and the display of goods in front of this unit prevents the appeal parade forecourt from being accessed via the crossover at No 21. The only other crossover serving the forecourt is opposite No 31, and the other lengths of highway along the appeal parade

frontage are occupied by Pay and Display parking bays. These appear to be very heavily used, and serve to limit access to and egress from the forecourt area to the single crossover.

6. The evidence before me is that the appeal parade forecourt area in general used by the parking of vehicles in a single row in front of the units, and my observations during my visit confirmed this. The practice does have the effect of allowing some space within the forecourt for vehicles to manoeuvre. Nevertheless, in my view these arrangements are unsatisfactory, carrying an inherent risk of conflict between vehicles and pedestrians. There is already a strong likelihood that vehicles driving between the carriageway and the forecourt areas in front of the units to either side of No 31 will need to drive over or along lengths of footway other than that adjacent to the crossover at No 31. The situation is very sensitive to the introduction of changes which might make matters worse.
7. The appellant proposes to use the forecourt area outside No 27 for the sale of motor vehicles. This use would also occupy part of the ground floor area of the unit, the remainder being retained in A1 use. The appellant states that vehicles would be driven only for the purposes of pre-sale servicing or on sale, but this ignores the provision of test drives. Moreover, whilst the appellant proposes that the forecourt area would be used by only three vehicles, and the internal area by one or two vehicles, this would still represent a very intensive use of these areas by vehicles. Very little space would be left around them for manoeuvring. It follows that moving a vehicle on and off the proposed vehicle sales areas would often require multiple vehicle movements, at least some of which would involve passing onto and over the footway. The proposal would thus lead to an undesirable and unacceptable risk of increase in pedestrian and vehicle conflict.
8. The appellant draws attention to a number of other commercial premises in the locality. However, whilst these are likely to give rise to considerably greater vehicular movements than the appeal proposal, they are characterised by clearly defined formal vehicular accesses, with the road boundaries otherwise delineated by walls. I therefore do not consider that these premises provide a materially supportive precedent to the appeal proposal.
9. The Council refers in its decision to the proposal's prejudice to the free flow of traffic, but it has not explained this at appeal. Whilst I saw that the road is busy, I am not convinced that any increase of movements arising from the proposal would be so severe as to cause unacceptably adverse effects on the flow of vehicular traffic. However, for the reasons I have given above, I have also reached the view that the proposal would lead to an unacceptable risk of increased conflict between pedestrians and vehicles.
10. I thus conclude that the proposal would result in an unacceptably detrimental effect on the safety and functioning of the highway. The Council refers to Policy T11 of the UDP¹ in its decision, but its subject matter is proposals for the creation of a new access, and I do not see that it is relevant to the appeal proposal. However, the proposal would be contrary to Policy T18, which seeks to ensure that road safety is not adversely affected by proposals.

¹ Unitary Development Plan, July 2006

11. I have taken into account all other matters raised by the evidence before me, but nothing arises which disturbs or outweighs my conclusions on the main issue. The appeal is therefore dismissed.

J Flack

INSPECTOR