

Appeal Decision

Site visit made on 17 October 2016

by Kevin Gleeson BA MCD MRTPI

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

Decision date: 12 December 2016

Appeal Ref: APP/V2255/W/16/3153288
60/63 Preston Street, Faversham, Kent ME13 8PG

- 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 Roland Yeung against the decision of Swale Borough Council.
 - The application Ref 15/509499/FULL dated 16 November 2015, was refused by notice dated 2 March 2016.
 - The development proposed is described as conversion of part of the existing premises to residential (6 x 1 bed and 8 x 2 bed) retaining the takeaway.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed use on the character of Preston Street and the wider town centre of Faversham.

Reasons

3. The appeal site is a large commercial property which occupies a frontage on Preston Street. It is proposed to retain the existing takeaway unit which forms the northernmost part of the frontage. However, the restaurant which is currently closed but previously occupied most of the remainder of the ground floor frontage is proposed to be converted to residential use. Two flats would have direct access from the street whilst one other and most of the upper floor flats would be accessed from a central entrance on Preston Street.
 4. Preston Street, from the northern side of Stone Street to 6 Limes Place and between 23a and 37 Preston Street opposite, is defined as a Secondary Shopping Area in the Swale Borough Local Plan, 2008 (the adopted Local Plan). The Swale Borough Local Plan Publication Version, 2014: Bearing Fruits 2031 (the emerging Local Plan) also confirms that the site is within a secondary shopping frontage forming part of a primary shopping area. Having regard to paragraph 216 of the National Planning Policy Framework (the Framework) I attach considerable weight to the relevant policies of the emerging Local Plan.
 5. The western side of Preston Street south of Stone Street has a mix of ground floor uses including residential, retail, offices, leisure and other commercial and community uses. On the opposite side of the street can be found a range of retail, office and restaurant uses. The restaurant frontage of the appeal property is longer than most other units within the secondary shopping
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frontage and occupies a significant proportion of the secondary shopping frontage.

6. The preamble to Policy B3 of the adopted Local Plan emphasises the importance of uses which are important to the health of commercial areas or underpin an area's primary shopping function. It indicates that the Council will seek to retain key town centre uses where a change of use would lead to a lesser contribution to the vitality or viability of the area. It also states that within defined secondary shopping areas a wider mix of uses will be permitted although vital and viable uses, including retail, should be retained. The vitality of these areas should continue, and where possible, be improved to provide attractive shopping environments. The same preamble applies to Policy DM1 of the emerging Local Plan.
7. Policy B3 of the adopted Local Plan and Policy DM1 of the emerging Local Plan state that within secondary shopping areas non-retail uses, including residential, will be permitted provided that they would not lead to a significant concentration of non-retail floor space or housing or the loss of significant retail frontage.
8. Policy B3 and Policy DM1 indicate that the proposed change of use should be considered in terms of vitality and viability. A residential frontage would contribute less to the vitality of the town centre than a restaurant use and would fail to provide an attractive shopping environment. No evidence has been presented to demonstrate that a restaurant use on the site would no longer be viable and the loss of restaurant floorspace would in my view affect the vitality of the secondary shopping frontage. It has also not been demonstrated that alternative town centres uses would not be viable in this location.
9. Although the ground floor use of the premises to be converted to residential is restaurant rather than A1 retail it is a town centre use and forms part of the secondary shopping frontage. Due to the amount of residential proposed at ground floor level and the length of the frontage the conversion of the property to residential would result in a significant frontage of residential development.
10. The appellant suggested that a residential use would be no more harmful to the vitality of a frontage than a professional services use. Whilst appearance and activity are aspects of vitality I nevertheless find that the proposal would have a detrimental impact upon the vitality and character of the secondary shopping frontage and the attractiveness of the town centre's primary shopping function.
11. I therefore find that the proposal would be contrary to Policy B3 of the adopted Local Plan and Policy DM1 of the emerging Local Plan because it would result in a significant concentration of residential use in this part of Preston Street. Furthermore, it would not be in accordance with Policy FAV1 of the adopted Local Plan because it would fail to support activities to enhance the economic health of the town centre. It would also be contrary to both Policy E1 of the adopted Local Plan and Policy DM14 of the emerging Local Plan in that the proposals would fail to reflect the positive characteristics of the town centre locality.
12. The proposal would also be contrary to paragraph 23 of the Framework which recognises the importance of town centres and supports their viability and vitality including through the definition of primary and secondary frontages.

Other Matters

13. The appeal property is within the Faversham Conservation Area and to the immediate north is the grade II listed Army Cadet Force Association Drill Hall, also known as the Faversham Assembly Rooms. Whilst the effect of the proposals on the conservation area has not been raised as an issue by the main parties the use of the listed building and its relationship to the proposed development was highlighted by interested parties. In reaching my decision I have had regard to the statutory duty to have special regard to the desirability of preserving the listed building and its setting and preserving or enhancing the character or appearance of the conservation area which derives its character from in part from the medieval street network.
14. The appellant has indicated that as the Council does not have a five year supply of housing land the provision of much needed housing in a sustainable location should be a consideration in favour of the proposal. Even if the Council did not have an appropriate supply of housing land I consider that the harm to the vitality of the town centre justifies the appeal being dismissed. The appellant has also made reference to Policy B1 of the adopted Local Plan but as the Council did not refer to this in its reason for refusal I have not taken this into account in my decision.
15. Reference was made by the appellant to the decision in 1996 to grant planning permission for redevelopment for residential use without retail or restaurant use at ground floor level. However, this approval was reflective of different circumstances and therefore has minimal relevance to the current proposal. The fact that Union Street would not be required for the servicing of the restaurant and that servicing of the takeaway could occur from Preston Street is also of very limited benefit to the proposal overall.
16. The Council has also raised the issue of the living conditions of future occupiers of the proposed flats. Particular concerns were the proximity of residential accommodation to a neighbouring live music venue as well as the proximity to other noise generating town centre uses. The appellant has responded that there is already residential adjoining the music venue. However, as I am dismissing the appeal for other reasons I have not come to a conclusion on this matter.
17. I have also taken into account the concerns of neighbouring occupiers about parking, loss of employment and the effect on neighbouring living conditions. However, they have not led me to any different overall conclusion.

Conclusion

18. For the reasons set out above, the appeal is dismissed.

Kevin Gleeson

INSPECTOR