
Appeal Decision

Site visit made on 9 January 2017

by H Butcher BSc (Hons) MSc MRTPI

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

Decision date: 2 February 2017

Appeal Ref: APP/L3625/W/16/3156436
35 Bell Street, Reigate, Surrey, RH2 7AW

- 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 wagamama Ltd against the decision of Reigate & Banstead Borough Council.
 - The application Ref 15/02290/CU, dated 14 October 2015, was refused by notice dated 11 April 2016.
 - The development proposed is a change of use of the ground floor from retail (Class A1) to a restaurant (Class A3), shopfront alterations and installation of plant equipment.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use of the ground floor from retail (Class A1) to a restaurant (Class A3), shopfront alterations and installation of plant equipment at 35 Bell Street, Reigate, Surrey, RH2 7AW in accordance with the terms of the application, Ref 15/022902/CU, dated 14 October 2015, 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: Location Plan, WAG025-101 Rev 2.4, WAG027-200-01 Rev 2.1, WAG025-200-02 Rev 2.3, WAG025-200-03 Rev 2.2, 6095/M/01 Rev D.
 - 3) Prior to occupation of the development hereby approved the proposed external exhaust duct and terminal as indicated on plan no. 6095/M/01 Rev D shall be painted black and permanently retained thereafter.
 - 4) The use hereby permitted shall only be conducted between the hours of 09:00 and 23:00.

Preliminary Matters

2. The application made to the Council was for both a change of use and advertisement consent, and the description of development on the application form reflects this. This appeal, however, relates only to the Council's refusal of planning permission in respect of the change of use. I have therefore removed any reference to signage in the final bullet point and my formal decision above. Amended plans accompany the appeal omitting the signage originally applied for, which was also refused. No party would be prejudiced by my considering this appeal on the basis of the amended plans.
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3. The Council raised no objection regarding the effect of the change of use on the character or appearance of the Reigate Town Centre Conservation Area or the settings of adjacent listed buildings. Nonetheless, I have had regard to the statutory duty to pay special attention to such matters. In this respect, the proposed changes to the shop front would be minor and sympathetic to the main building and area generally. I am therefore satisfied that the proposal would preserve these interests.

Application for Costs

4. An application for costs was made by wagamama Ltd against Reigate & Banstead Borough Council. This application is the subject of a separate Decision.

Main Issue

5. The main issue is the effect of the proposed change of use on the retail function of Reigate town centre.

Reasons

6. The appeal site comprises the ground floor of a four storey building located on the corner of Bell Street and Bancroft Road. It falls within a Primary Shopping Area of the town centre of Reigate, as defined in the Reigate and Banstead Borough Local Plan 2005 (LP). It was formerly a kitchen and bathroom shop (A1 retail) but is currently vacant. The proposal before me seeks a change of use to a wagamama restaurant (A3).
7. Policies Sh1 and Sh7 of the LP seek to resist the loss of retail uses in Primary Shopping Areas in order to protect the core retail function of town centres. However, policy Sh7 does recognise that an appropriate number of Class A3 uses can have a positive impact on the vitality and viability of a centre. Policy Sh7 goes on to set out that the loss of A1 retail frontage will not be permitted unless the proportion of the identified street frontage occupied by Class A1 retail shops is above 80%.
8. Although these policies pre-date the National Planning Policy Framework (the Framework) they should not automatically be considered out-of-date. Rather, due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The Framework supports the definition of primary shopping areas and the setting of local policies which make it clear which uses will be permitted in such locations. I therefore find no significant conflict between the approach set out in the local plan and the Framework and as such attach due weight to it in the consideration of this appeal.
9. The Council acknowledge that many of the retail frontages in Reigate are already below the Council's required 80% threshold. However, the Council state that due to the relatively large size of the appeal site its change of use would result in a further and significant loss of A1 frontage which they calculate to be around 30%. The Council therefore consider that this would harm the retail function of Reigate. However, no further evidence in respect of such harm is provided.
10. The appeal site is not located on Reigate's main high street, which is approximately 120m to the north and is where the highest concentration of

retail uses can be found. As noted previously the appeal site sits on the corner of Bell Street and Bancroft Road. Its main and longest frontage is onto Bancroft Road where non-retail uses dominate such as the library and cinema. Therefore the proposed change of use would fit well with the more leisure orientated feel of this area.

11. Bell Street, admittedly, does have a greater retail focus and there are a good number of A1 shops along the east side of Bell Street from the appeal site up to the high street. The appeal site, however, only has a narrow frontage onto Bell Street therefore the proposed change of use would not appear disproportionate in terms of a loss of retail frontage here. Nor would it result in a concentration of non-A1 uses.
12. The main parties are generally in agreement that an A3 use has merit in a town centre setting and can support retail function. I agree. People coming to Reigate town centre for retail purposes are likely to extend their stay by having a meal in the daytime. An A3 use at the appeal site would also work well with the adjacent cinema providing meals around evening screenings. The proposal would therefore not only support the retail function of Reigate during the day but also its night-time leisure economy.
13. Where a proposal falls below the relevant threshold Policy Sh7 requires evidence of reasonable attempts at letting as an A1 retail shop. The appeal site is currently vacant and has been so since October 2015, despite, according to the appellant, informal marketing. There is no evidence of any marketing before me therefore I can only afford this limited weight. However, I am conscious that whilst vacant the unit is making no contribution whatsoever to the retail function of the town.
14. Finally, from what I saw on my site visit and from the evidence presented by the appellant, Reigate is a thriving town centre. Vacancy rates appear to generally be low; the vacant appeal site being the exception rather than the rule in the immediate street scene. I have also given careful consideration to the views of the Reigate Business Guild Traders, which were relayed at the Planning Committee, and who were said to support the proposed change of use in that it would increase footfall along Bell Street therefore assisting the retail sales here. Furthermore, I note the overwhelming public support in respect of the proposal as evidenced by a petition containing 1,450 signatures calling for a wagamama to open in Reigate.
15. The Framework sets out that it is important that needs for retail and leisure in town centres are met in full. The proposal would clearly meet a leisure need and from the evidence before me I find no reason to conclude that the change of use would cause harm to the retail function of Reigate. Rather, the evidence suggests, it would support this. Whilst I note the Council's comment that the proposal would result in the loss of a larger A1 unit there is nothing before me to suggest premises of this type are required, particularly in this location.

Conclusion and Conditions

16. Decisions must be made in accordance with the development plan unless material considerations indicate otherwise. Whilst the proposed change of use conflicts with the detailed application of Policies Sh1 and Sh7 of the LP, on the evidence before me, it would conform to the broader aim of these policies which is to sustain and enhance the vitality and viability of Reigate. It would

also conform to the Framework in that it would meet a leisure need in the town centre whilst, similarly, supporting the viability and vitality of the town centre. The proposals conformity with the Framework is a material consideration. Furthermore, my findings in respect of the specific location of the appeal site, the town of Reigate in general, and the scale of public support for the proposal are also material considerations. Taken together the material considerations lead me to conclude that the proposed change of use would not harm the retail function of Reigate Town Centre and therefore indicate that it should be allowed. Consequently the material considerations outweigh the development plan in this case.

17. In addition to the standard time limit condition I have conditioned the approved plans for the avoidance of doubt and in the interests of proper planning. To ensure a satisfactory appearance I have included a condition requiring the proposed external exhaust duct and terminal to be painted black and this condition includes implementation and retention clauses. Finally, in the interest of neighbouring occupiers I have conditioned the hours of operation but have removed the Council's wording to the effect that these could be varied at a later date in writing as this would circumvent the statutory process for seeking to vary conditions thus depriving third parties of the opportunity to comment.
18. For the reasons set out above, and having had regard to all matters raised, the appeal is allowed.

Hayley Butcher

INSPECTOR