
Appeal Decision

Site visit made on 1 February 2017

by D J Board BSc (Hons) MA MRTPI

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

Decision date: 27 February 2017

Appeal Ref: APP/G5180/W/16/3161845

41 High Street, Orpington, London Borough of Bromley, BR6 0JE

- 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 Intervelt Limited against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/00337/FULL1, dated 25 January 2016, was refused by notice dated 26 April 2016.
 - The development proposed is change of use from retail to residential a single residential one floor dwelling.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - The effect of the change of use to residential on the vitality of the centre;
 - Whether the residential accommodation would provide appropriate living conditions for future occupiers, with particular regard to outlook and noise and disturbance;
 - Whether the alterations to the building would preserve or enhance the character of appearance of the Orpington Priory Conservation Area (CA).

Reasons

Vitality of the centre

3. The premises sit within a terrace of six units, each of which has a commercial use at ground floor. Orpington is designated as a Major Town Centre. The appeal premises are located outside of the designated secondary shopping frontage. Nevertheless, it is within a small parade of shops. As such policy S5 of the Council's Unitary Development Plan (UDP) would be applicable. This refers to local neighbourhood centres and shopping parades. UDP policy S11 relates to the change of use of ground floor premises in shopping areas to residential uses. The National Planning Policy Framework (the Framework) guards against the loss of shops and facilities.
 4. Within the group of 6 properties there are not any vacancies although I did not see some ground floor residential uses further along the High Street toward the
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centre. Nevertheless, the units are on the main pedestrian route to the town centre. The appellant submits that even if this unit was lost a 'large proportion' of the retail uses would remain. However, the Council's policies seek to protect all units that could contribute to vitality and viability.

5. Both Policies S5 and S11 allow for the change of use of a shop unit where it can be demonstrated that units have been vacant for a significant period of time, where there is no demand for commercial use and there is no reasonable prospect of it being let for a retail use. Applicants would need to be able to demonstrate that the vacant premises have been appropriately marketed for retail use.
6. The appeal unit is currently occupied although the appellant submits that no rent has been paid for about 3 years. However, there is no detailed evidence before me to support this claim or to suggest that the units have been marketed for retail or commercial uses or that attempts have been made to secure another A1 or other appropriate use. Consequently, there is no substantive evidence before me to demonstrate that the appeal unit would not be viable for A1 retail use or that a business occupying the premises for A1 or other town centre use would not be forthcoming in the future. Therefore, I am unable to concur with the appellant's argument that there is no realistic prospect of demand to use the site for continued retail use or alternative uses.
7. I therefore conclude that the proposed change of use would have a harmful effect on the vitality of the parade of shops. Therefore it would be in conflict with UDP policies S5 and S11.

Living conditions of future occupiers

8. I understand that the new dwelling would meet internal floor space standards and that between floors insulation would be provided. However, the bedroom for the ground floor unit would have a single window. This would be located within the recess of the rear elevation. As such it would be located behind the stairs to access the first floor. The position and size of the stairs would impact on levels of daylight and sunlight to the rear facing window that would serve the bedroom. This could potentially lead to a room that is dark and gloomy and with an oppressive outlook. This would be compounded by the movement up and down the stairs to access the upper floor of the premises.
9. I therefore conclude that the proposal would not provide appropriate living conditions for future occupiers, with particular regard to outlook and noise and disturbance. It would be in conflict with UDP policies H7 and BE1 which require new development to respect the amenity of future occupiers and ensure their environments are not harmed by noise and disturbance or by inadequate daylight, sunlight. It would also be in conflict with the Framework which seeks to ensure a good standard of amenity for future occupiers of land and buildings.

Conservation Area

10. The appeal site is located within the CA. The High Street and the parade beyond have a predominantly commercial character and is a busy route into the town centre. Accordingly, in terms of the Framework, the designated heritage asset concerned is the CA. The appeal building is part of that designated heritage asset.

11. The appeal scheme would change the front elevation of the building within the street scene. It would no longer have the proportions of a shop front. It would be filled with a smaller domestic style window that would match the one at first floor. Even taking into account the quality of materials and detail of the window this change would be at odds with the character of this part of the High Street.
12. The appellant submits that the scheme would contribute to meeting the borough's housing need. The proposal would cause less than substantial harm to the CA. However, with paragraph 134 of the Framework in mind, I am not persuaded that this consideration equates to the public benefits necessary to outweigh the harm that I have identified, or that the works are necessary to secure optimum viable use of the existing property.
13. I therefore conclude that the proposal would not preserve or enhance the character or appearance of the CA. It would therefore conflict with UDP policy BE11 which amongst other things requires new development in conservation areas to respect or complement the layout, scale and form of existing buildings. It would also conflict with paragraph 132, the Framework sets out that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Other matters

14. The appellants have referred me to an appeal decision that they consider is relevant in this case¹. The site is located in a different borough to the case before me. In addition there are differences between the main issues. Therefore whilst I have carefully considered the decision for the reasons given I accord it only limited weight in my decision. As such it would not alter my findings on the main issues in this case.

Conclusion

15. For the above reasons and having regard to all other matters raised I conclude that the appeal should be dismissed.

D J Board

INSPECTOR

¹ APP/C5690/W/16/3150229