
Appeal Decision

Site visit made on 22 February 2017

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 20th March 2017

Appeal Ref: APP/Y5420/W/16/3164355

16 Whittington Road, Wood Green, London N22 8YD

- 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 and Mrs L Charalambous against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2016/2697, dated 5 May 2016, was refused by notice dated 16 September 2016.
 - The development proposed is a change of use from A1 hairdresser to a self-contained 1 person flat.
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Decision

1. The appeal is dismissed.

Main Issues

2. There are two main issues. These are:
 - The principle of the proposed development and whether or not it would result in the unjustified loss of a retail unit with an active frontage; and
 - The effect of the proposed development on the living conditions of future occupiers with specific regard to the provision of private outdoor space, privacy and the amount of floor space.

Reasons

Principle of Development

3. The appeal site is the ground floor of a two storey terraced building. It is accessed directly from the pavement and is in use as a hairdressers (Use Class A1). Whilst in a predominantly residential side street, the premises is one of four commercial units in the terrace, forming a group of similar uses in conjunction with premises on Bounds Green Road to the north.
4. Saved Policy TCR4 of the UDP¹ stresses the importance of the protection of local shops and is not explicit that such protection is reserved for designated local centres or specifically lengthy unbroken parades. It sets out that the use of such premises can be changed provided, amongst other things, it can be demonstrated that there is no realistic prospect of the unit being used for A1 retail purposes in the foreseeable future.

¹ Haringey Unitary Development Plan 2006, Policies saved 2013

5. Emerging Policy DM44 of the Development Management DPD² has a similar emphasis. It too does not preclude changes of use, providing that it is demonstrated that the unit has been marketed for a minimum of one year and there is no realistic prospect of it being used for a town centre use and there are adequate alternative shopping facilities for local residents within a reasonable walking distance of 400 metres. This DPD is emerging Policy, nonetheless it is consistent with the approaches of the adopted UDP and the Framework³ as well as having been through examination. It is currently awaiting final comments from the examining Inspector. I therefore afford it significant weight.
6. The appellant's submission is not supported by any evidence of formal marketing having taken place. I accept that the 2008 retail study⁴ does highlight that there are available alternative facilities within the required distance but on my reading of DM44, this element of the Policy does not seem clearly severable from the marketing test. It is clear to me that both criteria must be met.
7. There may be limited demand for hairdressers in the area and I have not been provided with any detailed evidence to support the Council's claim that there is a local demand for retail floor space. However, it is clear there are a number of other uses that would be appropriate under A1 that the appellant has not explored sufficiently to prove that there is no demand for the floor space as it currently stands. The development plan requires evidence to support a lack of demand, not proof that a given business is no longer viable as a going concern. In any event, at the time of my visit the premises were open and all indications from the interior were that it is still trading as an A1 use.
8. For these reasons, the proposed development would result in the loss of a retail unit that would be unjustified as well as, by definition, the replacement of an active retail frontage with a purely residential one. Permitting the unjustified loss of these uses has the potential to undermine the longer term vitality of local centres. Consequently, it would conflict with saved Policy TCR4 of the UDP, Policy SP10 of the Local Plan⁵ and emerging Policy DM44 of the Development Management DPD. These Policies, amongst other things and along with the Framework, set out the importance of retaining and enhancing town and local centre uses in the interests of the viability, vitality and general health of the wider community.

Living Conditions

9. The proposed development would not provide for any private outdoor space. The London Plan Housing SPG⁶ requires a minimum of 5sqm of private outdoor space for 1-2 person dwellings. The guidance further sets out that private open space is highly valued and should be provided in all new housing developments.
10. As a change of use the provision of a new dwelling would be considered as new development despite a limited amount of physical works being required to enable it. The lack of any private open space on an individual or communal

² Haringey London Development Management Development Plan Document: Pre Submission Version (2016)

³ The National Planning Policy Framework (2012)

⁴ Retail and Town Centres Study: London Borough of Haringey, Nathaniel Lichfield and Partners (2008)

⁵ Haringey's Local Plan Strategic Policies 2013-2026 (2013)

⁶ The London Plan Housing Supplementary Planning Guidance (2016)

basis is where the proposed development would be found wanting and I do not accept the appellant's argument that as a single person flat the value of or expectation for private outdoor space should be any less.

11. The ground floor front window as it currently stands would not allow sufficient privacy for occupants. However, the use of part obscure glazing is one of a number of measures that could be secured by planning conditions which could readily overcome this concern. I do remain concerned that such measures would have a significantly restrictive effect on outlook from the flat since the ground floor front window would be the only source for such. Whilst this is not a matter of dispute between the parties, I consider that a solution to one potential problem may be the source of another and thus would add to the harm that I have identified above.
12. Policy 3.5 of the London Plan 2015 sets out the minimum space standards for new dwellings, requiring 39sqm for a single bedroom, one person bed space and 50sqm for a single bedroom two person bed space. There remains disagreement between the Council and the appellant as to which figure is appropriate.
13. At 39sqm, the proposed flat would be acceptable as a single bedroom one person bed space. I accept that there are flank walls with an opening through into the rear of the unit and the kitchen, storage and bathroom areas are separated by internal doors. However, there is no physical separation in the bed/living space as shown and one would have to go through the rear section to access the kitchen, storage and bathroom. It is for these reasons that I consider it would be reasonable to define the proposed flat as a single bedroom one person bed space. As such, the amount of floor space that has been created would be sufficient.
14. My findings in respect of the size of the proposed flat are not sufficient to overcome my other concerns regarding its shortcomings as I have set them out above. The proposed development would therefore fail to provide an acceptable standard of living conditions for future occupiers. Consequently, it would not accord with saved Policy UD3 of the UDP, Policy 3.5 of the London Plan 2015 and the standards set out by the London Plan Housing SPG.
15. These Policies and guidance, along with one of the core principles of the Framework, seek to ensure, amongst other things, a good standard of amenity for existing and future occupants of land and buildings.

Other Matters

16. The appeal site falls within the boundaries of the Bowes Park Conservation Area (BPCA). I am aware of the relevant policy tests set out by the saved and emerging policies of the development plan in this regard as well as section 12 of the Framework.
17. The proposed development is for a change of use with no discernible external alterations. The frontage would change from commercial to residential but this would not be an unusual or strident feature in the BPCA. The character and appearance of the BPCA would be changed by virtue of this alteration, but to my mind not to the extent that it would be adverse. As such, I am satisfied that the proposed development would preserve the character and appearance of the BPCA.

18. My attention has been drawn to the dismissal of an appeal at 40 Nightingale Lane, London⁷. The decision in this case was in respect of the change of use of the ground and basement floors of the building into residential accommodation amongst other external works. I note the Inspector's comments in respect of the evidence that was submitted in support of the change of use and that which was specific to seeking to prove that the existing use was no longer viable.
19. I accept there are some similarities in the policy context of this appeal and the scheme before me and obvious differences in the merits of each one. But as I have stated above, the policies specific to the consideration of the scheme before me do not explicitly require evidence that a given business is viable or not. Only that adequate evidence be provided that there is no demand for the continuation of the use as A1 which in the case of the proposed development has not been provided. I do not see therefore that the decision referred to above has significant bearing on the case before me.

Conclusion

20. For the above reasons, and having regard to all other matter raised including those by local residents, the appeal is dismissed.

John Morrison

INSPECTOR

⁷ Planning Inspectorate Ref APP/Y5420/W/16/3149071