
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/N5090/W/16/3162530

16 Sussex Ring, North Finchley, London N12 7HX

- 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 Hajri Alija against the decision of the Council of the London Borough of Barnet.
 - The application Ref 16/4988/FUL, dated 26 July 2016, was refused by notice dated 22 September 2016.
 - The development proposed is a change of use from A1 (Coffee Shop) to A3 (Cafe). Installation of extractor flue to rear.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. I have taken the description of development as it is shown on the appeal form as it most accurately describes the development to which the appeal relates. It is clear that the Council are content with this approach since the same description appears on their decision notice. I have proceeded on this basis.

Main Issue

3. The main issue is the principle of the proposed development in whether or not it would result in the unjustified loss of an A1 retail unit.

Reasons

4. The appeal premises is one of a number of ground floor units arranged around a four way junction known collectively as Sussex Ring. The premises are currently open and trading, all of the other units are also occupied.
5. Policy DM12 of the Council's Development Management DPD¹ establishes the principle that all retail uses (Class A1) will be protected. The policy is not relevant solely to local centres or designated areas, but also to all other parades and isolated shops and as such is relevant to the appeal before me. It further sets out the criteria by which, in effect, the Council may accept an appropriate change of use. The criteria are not severable, it is clear that they must all be met. It is common ground between the appellant and the Council that the proposed development would be acceptable under the first three listed criteria.

¹ Barnet's Local Plan (Development Management Policies) Development Plan Document 2012

6. The focus of the appeal before me therefore is whether or not there is demand for the continued A1 use of the appeal premises and that it has been marketed effectively to reach that conclusion.
7. The appellant's evidence indicates that the current A1 use of the premises is thriving. Takings appear to be healthy and there is nothing further to suggest that it would not continue to be a successful business without an A3 use permitted. The premises have been marketed but in a limited manner that lacked focus, clarity and detail that it was seeking interest for continued A1 use. Specifically, there is no explanation of how the rent values were considered reasonable and the unit was described as vacant when it clearly was not. The premises are part of what appeared on my site visit to be a lively and vibrant local centre which clearly and effectively serves the needs of the local community.
8. In the interests of the vitality and sustainability of these local centres and parades, the removal of key uses should be supported by robust evidence. The lack of strength in the argument in favour of the loss of an A1 use in this case is telling. Critically, I would be concerned that granting a planning permission in this case could be used as an example to support future changes of use, thereby threatening the sustainability of the area in the long term and undermining the aims of the development plan.
9. When taking all of these factors into account, the proposed development would fail to accord with Policies CS6 of the Core Strategy² and DM12 of the Development Management DPD. These Policies seek to maintain and protect local centres and parades and specifically ensure they continue to contribute to sustainable suburbs. I therefore conclude on the main issue that the proposal would result in an unjustified loss of an A1 retail unit.

Other Matters

10. The appellant expresses concern over the relevance and application of the Policies advanced by the Council. I accept that Policy CS6 of the Core Strategy is headed to refer to town centres. Nonetheless, there is a paragraph within the body of the Policy that emphasises the Council's commitment to protecting more local neighbourhood centres and parades of shops, in the interests of their potential contribution to sustainable suburbs and shopping. This issue is then developed further by Policy DM12. I am therefore of the view that, based on the evidence before me, this policy direction is very relevant to the appeal premises.
11. The change of use would allow expansion of the business. This would have economic benefits which the Framework³ is positive about. In addition, I am aware that the proposed development would not cause harm to the living conditions of neighbouring occupiers, it would be acceptable in the visual sense and there is widespread local support in the shape of a petition with a high number of signatories.
12. As I have alluded to above, it does not seem from the evidence that the viability of the existing business would necessarily suffer without the change of use or indeed that the establishment of an A3 use is essential to its longer term sustainability. Furthermore, and whilst some of these matters clearly weigh in

² Barnet's Local Plan (Core Strategy) Development Plan Document 2012

³ The National Planning Policy Framework 2012

favour of the proposed development, when taken altogether, they would not be sufficient to outweigh the harm that would be caused by the unjustified loss of an A1 use.

13. My attention is drawn to the Council having granted a planning permission for the change of use of 1 Sussex Ring to an A3 use. I have not however been provided with any more detail on this particular scheme and as such cannot be certain that it is sufficiently comparable to the appeal before me. I therefore afford it limited weight in my findings.

Conclusion

14. For the above reasons, and having regard to all other matters raised, the appeal is dismissed.

John Morrison

INSPECTOR