
Appeal Decision

Site visit made on 14 February 2017

by **A J Mageean BA (Hons) BPI PhD MRTPI**

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

Decision date: 27th March 2017

Appeal Ref: APP/G5180/W/16/3162478

24 Station Square, Petts Wood, Orpington BR5 1NA

- 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 Wahab Corporation Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/16/02230/FULL3, dated 2 May 2016, was refused by notice dated 13 September 2016.
 - The development proposed is change of use of first floor to restaurant (Class A3) as an extension to the existing ground floor restaurant.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the provision of residential accommodation in the Borough.

Reasons

3. The appeal site is located within the primary shopping frontage of the Petts Wood District Centre, and is additionally within the Station Square, Petts Wood Conservation Area. The ground floor is currently in restaurant use.
4. Policy H1 of the London Borough of Bromley Unitary Development Plan 2006 (the UDP) sets out the measures by which provision for housing will be made. This includes *not permitting the loss of housing through redevelopment or change of use, except where accommodation is unsuitable and incapable of being adapted for continued residential use or where the proposal meets an identified need for community facilities.*¹
5. The survey presented by the Council states that the majority of upper floors in Station Square are in residential use. I accept that different methods can be used to make such calculations, and that findings may therefore differ. However, I was able to observe on my site visit that most of the upper floors in the Square are not in commercial use. Whilst the appellant argues that the first floor of this property has been used as staff accommodation and for storage for some time, it was also clear from my site visit that the first floor has the basic facilities to provide a residential unit. Furthermore, I noted on my site visit that the side access door is not in fact obsolete, but provides independent access to the first floor.

¹ Policy H1 (iii)

6. The appellant argues that such residential use above an existing restaurant is not viable, noting the pervasive nature of cooking smells. However, restaurant smells and noise is typical of such accommodation, and is managed with appropriate insulation and sound proofing. The appellant also argues that under the terms of the lease the first floor cannot be let out and can only be used by the restaurant business. However, the appellant has not presented any evidence to support this statement, or to demonstrate that this area is unsuitable or incapable of being used for residential purposes. Nor has marketing information to demonstrate that this could not provide viable independent residential accommodation been provided.
7. Whilst I have some sympathy with the fact that this area is no longer required for staff accommodation, this does not in itself justify a change of use. I also accept that the loss of this small unit would not have a significant impact on housing stock. Nevertheless the loss of this unit of accommodation would conflict with policy. Whilst I note that the approved conversion of the first floor of the neighbouring property from office to residential use has not taken place, this remains a valid approval and is therefore material to the present decision.
8. I do not dispute the fact that this business is successful, would benefit from additional floorspace, and that additional jobs may be created by this development. I accept that the National Planning Policy Framework supports enterprise and economic growth. In this respect the appellant states that this proposal would bring redundant floorspace back into use, noting that if this application is unsuccessful the business may not be viable and need to relocate. Whilst I have some sympathy with the appellant's circumstances, as this is clearly a commercial operation its expansion would not meet an identified need for community facilities, as is required under Policy H1. In this case a change of use to enable the expansion of the restaurant would therefore not be appropriate.
9. In determining this case I am required to have regard to the statutory duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have regard to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this case I have identified harm in terms of the loss of residential accommodation, however the proposal would not involve alterations to the appearance of the building and it would not have a detrimental impact on the character and appearance of the area. My view is therefore that the proposal would have a neutral impact on the Conservation Area.
10. In summary, I have found that the proposal would have a detrimental effect on the provision of residential accommodation in the Borough, and that it would not meet an identified need for the provision of community facilities. In this respect the proposal would conflict with the UDP Policy H1 and I see no reason to conclude other than in accordance with the development plan.
11. For these reasons the appeal is dismissed.

AJ Mageean

INSPECTOR