
Appeal Decision

Site visit made on 20 March 2017

by Graeme Robbie BA(Hons) BPI MRTPI

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

Decision date: 6th April 2017

Appeal Ref: APP/L5810/W/16/3165588
130 High Street, Teddington TW11 8JB

- 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 Mrs Camilleri against the decision of the Council of the London Borough of Richmond-upon-Thames.
 - The application Ref 16/1693/FUL, dated 28 April 2016, was refused by notice dated 6 July 2016.
 - The development proposed is temporary planning permission for a 3 year period for the continued use of the ground floor premises as a restaurant / café (Use Class A3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposed development on the viability and vitality of the Teddington District Centre.

Reasons

3. The appeal premises lies within a Secondary Shopping Frontage and a Retail Frontage Subject to Specific Restrictions within the Teddington District Town Centre. Policy DM TC3 of the Local Development Framework: Development Management Plan (adopted 2011) (DMP) aims to protect existing retail areas of the town centres by controlling changes of use from retail.
4. Although DMP policy DM TC3(B) identifies Secondary Shopping Frontages (SSF) where non-retail proposals will be considered to be acceptable if they satisfy a range of criteria, part D of the same policy sets out a range of specific frontages or areas where particular classes of use will not be permitted. The appeal site lies within one such frontage, that of 112 – 196 (even) High Street, where changes of use to Class A3 or Class A4 uses will not be permitted.
5. A previous proposal for the change of use of the appeal premises to a use falling within Class A3 was dismissed at appeal in 2013¹. However, since early 2014, I am advised that the premises operated temporarily as a Class A3 use under the terms of, the then extant, Class D, Part 4, Schedule 2 Town and Country Planning (General Permitted Development) (Amendment) (England)

¹ APP/L5810/A/13/2191084

Order 2013 (the GPDO). Whilst that temporary permission has now expired, the use was still present at the time of my site visit.

6. The retention of the appeal premises as a Class A3 use for a further three years would maintain an unbroken run of three non-shop units, contrary to DMP policy DM TC3(B)(c). DMP policy DM TC3 does not set out a particular threshold above which it considers there to be an over-concentration of non-retail uses (for the purposes of part B(e)). The Council's figures regarding the proportion of non-retail and Class A3 and A4 uses have not been challenged by the appellant and, at respectively 28.5%² and 46%³, I am satisfied that the proposal amounts to an over-concentration of such uses contrary to DMP DM TC3(B)(e). In any event the site is located in an area where changes to Class A3 or A4 uses will not be permitted⁴.
7. My observations of the site and the surrounding area are broadly consistent with the Council's figures and, in the absence of compelling evidence to the contrary, I see no reason to reach a different conclusion. Thus, I find the proposal to be contrary to DMP policy DM TC3(B)(c), B(e) and D.
8. I note anecdotal references to periods of vacancies elsewhere within the High Street, and the suggestion that within the last 18 months '*a considerable number*' of retail and restaurant premises have become vacant. However, I have not been provided with compelling evidence to demonstrate that potential or future occupiers would not be attracted to the premises for retail purposes, or that the premises might otherwise stand empty for a considerable length of time. Nor did I see any particular evidence of vacant units along this particular stretch of High Street. That only 3 vacant units have been identified by the main parties elsewhere on High Street lends weight to my conclusions in this respect.
9. I acknowledge that the café has, during the recent temporary period of operation, become a popular destination and is a source of employment. It is also noted that the proposal is framed in terms of seeking a temporary three year permission. However, whilst weighing in support of the proposal, these factors are not sufficient to outweigh the policy conflict that I have identified above, DMP policy DM TC3 being a policy that seeks to support and protect existing retail areas of town centres.

Other Matters

10. The site lies within the High Street Teddington Conservation Area and is identified as a Building of Townscape Merit. The appeal proposal does not, however, involve any external alterations to the building. The Council did not specifically address the statutory requirements set out in the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) (the Act) in their delegated officer report, but I note that the Council's reasons for refusal did not extend to the effect of the proposal on the character or appearance of the Conservation Area.
11. I am, however, nonetheless obliged to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. The proposal would not result in any external changes or alterations to

² 112 – 196 (even) High Street – as set out in DMP policy DM TC3(D)

³ South side of High Street, between Udney Park Road and Kingston Lane

⁴ DMP policy DM TC3(D)

the appeal premises and, as I have already concluded that there is no compelling evidence to suggest that the premises would remain vacant for a considerable time, I am satisfied that the proposal would preserve the character and appearance of the Conservation Area.

12. I have noted the objections of a nearby resident regarding the on-going impact of the proposal on living conditions with particular reference to noise and odour, the visual impact of extraction systems and traffic generation. However, these matters did not form part of the Council's reasons for refusal and as I have found against the proposal in respect of the main issue, I have not considered these further.

Conclusion

13. For the reasons set out, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Graeme Robbie

INSPECTOR