
Appeal Decision

Site visit made on 24 April 2017

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 22 May 2017

Appeal Ref: APP/A5270/W/17/3167392
66 North Road, Southall UB1 2JL

- 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 H S Viridi against the decision of the Council of the London Borough of Ealing.
 - The application Ref 162307FUL, dated 28 April 2016, was refused by notice dated 20 July 2016.
 - The development proposed is the change of use from shop (A1 Use Class) into restaurant/café (A3 Use Class) with associated extract ducting to rear façade from ground to second floor level.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. A two year temporary change of use from Use Class A1 to Use Class A3 was implemented under the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015. The temporary change of use commenced from 12 September 2016 and as such, at the time of the site visit the change of use from a shop to a restaurant had occurred.
3. I have used the description of the proposal from the Council's decision notice as it provides a full description of the development.

Main Issue

4. The main issue is the effect of the proposal on the vitality and viability of the retail character and function of the local shopping parade.

Reasons

5. The appeal site is a mid-terrace ground floor unit, with residential accommodation on the first floor. The site forms part of a wider parade which comprises of six units, all with residential units on the first floor. The area is characterised by a mix of commercial and residential uses and the parade is designated as a primary shopping frontage. At the time of the site visit all units were occupied, with all but the unit at 60 North Road, having an A1 retail use.
 6. The units on either side of the appeal site are currently in retail use, with the existing unit at No 60 in A3 use being located at the end of the terrace. As such, the proposal would not result in consecutive units in a non-A1 use.
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Nonetheless, the proposal would result in just over 33% of units within the parade being in a non-A1 use.

7. Policy 4B of the Ealing Development Management - Development Plan Document 2013 (the DPD) states that A1 retail uses should constitute 100% of the designated primary frontage at street level and should not result in the loss of necessary local shopping.
8. It is accepted that, due to the opening hours, an active frontage would result during the day and into the evening. Given the opening hours, the proposal would encourage pedestrian flow into the locality. As such, the appellant contends that the active frontage would attract more people to the parade and therefore it is not necessary for all units to have an A1 use to sustain the vitality and viability.
9. Despite an active frontage remaining, the proposal would result in a level of retail use within the primary shopping frontage which would be significantly below the 100% figure sought within the DPD. It is acknowledged that the figure has already been breached by the A3 use at No 66. Nevertheless, the cumulative impact of an additional A3 unit would substantially increase the percentage of non-retail uses to a significant level within the parade.
10. Furthermore, it is noted that the previous use of the unit was that of a wine store, which is an A1 use. No evidence has been submitted to demonstrate that the unit has been marketed effectively for a continued retail use or to fully justify the loss of an A1 use at the appeal site. In the absence of such information specific to the appeal site, I am not persuaded that a non-retail use is the only viable option for the unit.
11. The National Planning Policy Framework (the Framework) encourages local business and local economic growth. The Framework also clearly states that local planning authorities should define primary shopping areas, based on a clear definition of primary and secondary frontages and set clear policies as to which uses will be permitted in such locations.
12. At the time of the site visit, the parade was relatively lively, with no visual evidence to demonstrate that the parade or surrounding area was in decline. It is acknowledged that permitted development rights allows for a temporary change of use from A1 to A3 for less than 150 square metres of floor space, which has occurred for a period of two years from 12 September 2016 at the appeal site. In addition, it is noted that the appellant has invested capital in order to facilitate the change of use to a restaurant.
13. Nonetheless, the proposal before me would result in a permanent change of use. Such a change would prejudice the dominance of A1 uses and the principal role of the parade as a local shopping centre. The proposal would result in the loss of an A1 retail unit, which would lead to A3 uses being an increasingly dominant element of the parade.
14. Consequently, the proposal would have a harmful effect on the retail function and vitality of the parade contrary to Policy 4B of the DPD and Policy 4.8 of The London Plan (2016). Taken together, these policies, amongst other things, seek to safeguard the retail function and vitality of local shopping parades as they provide a useful local service within walking distance of residential areas.

Conclusion

15. For the reasons given above, and taking account of all matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR