

Appeal Decision

Site visit made on 2 May 2017

by Alexander Walker MPlan MRTPI

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

Decision date: 23rd May 2017

Appeal Ref: APP/X5990/W/17/3167791
34B Moreton Street, London SW1V 2PD

- 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 Miss Jeanne McSherry against the decision of City of Westminster Council.
 - The application Ref 16/06356/FULL, dated 6 July 2016, was refused by notice dated 13 December 2016.
 - The development proposed is the use of rear part ground floor shop (Class A1) as residential accommodation (Class C3) in conjunction with existing lower ground floor residential unit.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have used the description of the development as set out in the Council's decision notice as it is more concise than that in the application form.

Main Issue

3. The main issue is the effect of the development on the vitality and viability of the Moreton Street Local Centre.

Reasons

4. The appeal property lies within the Moreton Street Local Centre (the MSLC), the frontage of which is Non-Core Frontage, as defined in the development plan. The MSLC comprises a variety of uses. From the observations I made during my site visit, there were no apparent vacant units and the MSLC appears to be performing well.
5. The appeal property is currently occupied by a bridal shop, which, as confirmed by the appellant, is opened by appointment only, generally a couple of hours a week. The lower ground floor and upper floors are in residential use. The proposal would utilise the rear half of the ground floor shop to extend the lower ground floor apartment.
6. The appellant contends that the provision of housing is a priority across Westminster. This is stated in Saved Policy S14 of the Westminster City Plan (WCP) 2013. However, this is succeeded by '*except where specifically stated*'.

7. Saved Policy SS7 of the City of Westminster Unitary Development Plan (UDP) 2007 seeks to protect designated Local Shopping Centres. SS7(C) states that outside the Core Frontages, or where a Core Frontage is not defined, permission will be granted for the loss of an A1 use at ground level, subject to four requirements. Furthermore, Policy S21 of the WCP states that existing A1 retail will be protected throughout Westminster except where the council considers that the unit is not viable, as demonstrated by long-term vacancy despite reasonable attempts to let.
8. The appellant has referred to Saved Policy SS5 of the UDP. However, the site lies within the MSLC and therefore it would appear that this policy is not applicable.
9. Therefore, based on the above policies, it is clear that the City Council place great emphasis on housing provision. However, this should not necessarily be at the expense of A1 retail provision in designated Local Shopping Centres, as embodied in Saved Policy SS7 of the UDP and Policy S21 of the WCP.
10. The appellant contends that the reduced size of the A1 unit would be more attractive to potential tenants as the rent would be less and there is already interest from a number of businesses. Furthermore, it is argued that there is limited passing trade which makes it difficult for the existing business to operate, hence the limited opening times. I appreciate that a smaller unit would be suitable for smaller businesses and the existing and past businesses have struggled due to the limited passing trade. However, the existing A1 use can accommodate a significantly wide range of businesses. There is no evidence before me that the unit has been marketed at its current size or that there is no longer a need for A1 units of this size in the MSLC. Similarly, there is no evidence to suggest that there is a need within the MSLC for a unit of the proposed size, albeit I recognise that there is an interest in the proposed unit. Therefore, in the absence of such information it is not possible to establish with certainty that there is no market for the unit at its current size and that the unit, not the existing business, is not viable.
11. The reduction in the size of the unit would limit the attractiveness of the unit to potential occupants as it would only be suitable for very small businesses. Given the limited number of businesses that it could accommodate it is possible that it could lead to its long-term vacancy, which would consequently have a significantly harmful effect on the vitality and viability of the MSLC. I note that if the property space is unlettable for some time the appellant has suggested that she would occupy it as an estate agents. Notwithstanding that there is no mechanism to ensure that the appellant would do this or that there is no account for any future changes in the ownership of the property, an estate agents does not generally fall within an A1 use class and therefore planning permission would be required for such a use.
12. I have had regard to other properties in the street that have had the amount of A1 use floorspace reduced or completely changed to residential use. Both the appellant and the Council confirm that some of these changes do not benefit from planning permission. Nevertheless, the additional loss of A1 use floorspace as a result of the proposal would only further reduce the availability of A1 units of this size in the MSLC and significantly harm its vitality and viability.

13. I find therefore that the proposal would significantly harm the vitality and viability of the MSLC. As such, it would fail to accord with Saved Policy SS7 of the UDP and Policy S21 of the WCP.

Other Matters

14. The appeal site lies within the Pimlico Conservation Area (CA). The Council have raised no objection to the proposal in respect of whether it preserves or enhances the character or appearance of the CA. As the proposal would not involve any external alterations, I find that that it would have a neutral effect on the significance of the CA and therefore would preserve its character and appearance. However, this does not outweigh the harm I have identified above.
15. I understand the apprehension from neighbouring residents regarding the effect of the development on their living conditions, in particular with regard to the terrace. However, the rear of the property is a tight form of urban development where significant overlooking already exists. Notwithstanding the appellant's contention that the terrace already has a residential use, I do not find that it would cause any significant harm by way of overlooking to the occupants of the neighbouring properties.

Conclusion

16. The proposal would provide a spacious 2 bed apartment and make a positive, albeit limited, contribution towards housing supply and therefore comply with relevant housing policies in the UDP and WCP. However, it would not outweigh the significant harm it would have to the vitality and viability of the MSLC when assessed against the policies of the UDP and WCP when taken as a whole.
17. For the reasons given above, having regard to all matters raised, the appeal is dismissed.

Alexander Walker

INSPECTOR