

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/17/3167022

Ground Floor, 14, Blenheim Terrace, London NW8 0EB

- 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 Premal Patel against the decision of City of Westminster Council.
 - The application Ref 16/10543/FULL, dated 3 November 2016, was refused by notice dated 5 January 2017.
 - The development proposed is the change of use on the ground floor from A1 to A2. There has previously been A2 use in the basement of this property and would like to bring it up to the ground floor.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the development on the vitality and viability of the Blenheim Terrace Local Centre.

Reasons

3. The appeal property lies within the Secondary Frontage of the Blenheim Terrace Local Centre (the BTLC), as defined in the development plan. The BTLC comprises a variety of uses including A1, A2, A3 and B1. The evidence before me and the observations I made during the site visit suggest the BTLC appears to be performing well.
4. The appeal building comprises a number of uses consisting of a mixed A2/B1 use at basement level, an A1 use at ground level and residential units on the upper floors. At the time of my site visit, the ground floor, which is the subject of this appeal, was vacant but it was clearly evident that its last use was a newsagents.
5. 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.
6. I acknowledge that the existing A1 unit has been vacant for approximately 9 months and over recent years running a profitable newsagents has become

more difficult. However, the existing A1 use could accommodate a wide range of businesses, not just a newsagents.

7. A large percentage of the units within the BTLC are already non A1 uses, resulting in a finely balanced mix of uses. The loss of the existing A1 unit would undermine this balance. Although there is an existing convenience store at No 10 Blenheim Terrace, the loss of the A1 use would significantly limit the availability of other A1 uses from operating in the BTLC. Furthermore, it would reduce the overall number of shops on offer within the BTLC, therefore limiting its competition with other shopping centres that have more to offer. Whilst it would result in the loss of only a single A1 unit, given that the BTLC is relatively small, the harmful effect on its vitality and viability would be significant. I find therefore that the proposal would fail to satisfy Saved Policy SS7(c)(2) and (4).
8. The appellant states that No 16 Blenheim Terrace has planning permission¹ for a dual A1/sui generis use and therefore the proposal would not result in three consecutive non A1 units in the frontage. However, the Post Office that accommodates No 16 is operating under the approved sui generis use, not the A1 use. Accordingly, as both Nos 12 and 18 are also non A1 uses, the proposal would fail to satisfy SS7(c)(3) as the proposal would result in three consecutive non A1 uses in the frontage.
9. I note that the basement of the appeal building was granted planning permission in 2012² for a change of use from A2/B1 to C3. However, I do not accept that the substitution of the existing A1 use with the previous basement level A2 use would comply with the requirements of Saved Policy SS7. There would still be a loss of an A1 use which this policy clearly seeks to protect more than A2 uses. I have also had regard to the planning permission granted for an A1 use at No 4 Blenheim Terrace, which resulted in an increase in the overall number of A1 units in the BTLC. However, I do not consider that the permitted A1 use at No 4 offsets the loss of the A1 use at the appeal property. If such an argument was accepted, then it could be argued that this gain has already been offset by the loss of the A1 use at No 16.
10. Policy S21 of the Westminster City Plan (WCP) 2013 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.
11. The appellant confirms that very few people are interested in opening an A1 use in this area. I have had regard to the Council's Shopping Centre Health Check Survey 2014 Local Centre 3: Blenheim Terrace, which identifies that the BTLC has a low footfall. However, it notes that this is of a level to be expected in the residential nature of the surrounding areas. In any event, there is no evidence before me to substantiate the assertion that there is a lack of interest in the appeal property, for example, evidence of a marketing exercise. Therefore I do not find that it has been satisfactorily demonstrated that reasonable attempts have been made to let the property. Accordingly, the proposal fails to accord with Policy S21 of the WCP.

¹ LPA Ref 11/00197/FULL

² LPA Ref 12/11768/FULL

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

Other Matters

13. The appeal site lies within the St. John's Wood 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.

Conclusion

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

Alexander Walker

INSPECTOR