
Appeal Decision

Site visit made on 30 May 2017

by Kenneth Stone BSc Hons DipTP MRTPI

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

Decision date: 14 June 2017

Appeal Ref: APP/J1535/W/16/3165565
'Lanes', 263 High Street, Epping CM16 4BP

- 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 Tracey Daniels against the decision of Epping Forest District Council.
 - The application Ref EPF/0632/16, dated 7 March 2016, was refused by notice dated 9 November 2016.
 - The development proposed is conversion of part of existing A1 shop at ground floor and C3 first and second floor unit into 3 self-contained flats, including two storey rear extension.
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Decision

1. The appeal is allowed and planning permission is granted for conversion of part of existing A1 shop at ground floor and C3 first and second floor unit into 3 self-contained flats, including two storey rear extension at 'Lanes', 263 High Street, Epping CM16 4BP in accordance with the terms of the application, Ref EPF/0632/16, dated 7 March 2016, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: ELA/1A, ELA/1AA, ELA/2A, ELA/4C, ELA/6B, ELA/11A and ELA/13.
 - 3) Notwithstanding condition 2 no development shall take place until details and samples of the types and colours of the external finishes, including doors and windows, have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

Procedural matter

2. The description of development above is taken from the Council's decision notice as this more accurately describes the development proposed, by adding reference to the two storey rear extension and thereby adding clarity.

Main Issue

3. The main issue in this appeal is the effect of the proposed development on the vitality and viability of Epping town centre.
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Reasons

Vitality and viability

4. The appeal relates to a property located in Epping town centre, designated as a principal town centre in the Epping Forest District Local Plan (January 1998) Local Plan Alterations (adopted 2006) (Local Plan). The premises are located within the 'Key Retail Frontage' in the centre where the primary function is to maintain a retail offer with 70% of the frontage being in retail use and no more than two non-retail frontages being contiguous.
5. Planning permission has previously been granted for the conversion of the upper floors, presently in use for residential, to be converted into two self-contained flats. The proposals the subject of this application would retain the two self-contained flats on the upper floors and provide for a third flat on the ground floor, at the rear of the premises. A small retail unit would be retained at the front of the premises, of some 60 sqm, and which would retain retail frontage onto the High Street.
6. Policy TC3 of the Local Plan indicates that in the principal town centres the Council will, amongst other matters, (ii) permit residential accommodation in appropriate locations but not at ground floor level, and that the Council will refuse any proposal that could have a detrimental impact upon the vitality and viability of the centre. On the face of it the proposal, which would provide for residential accommodation at ground floor level, would conflict with this aspect of the policy. The policy however also introduces a test related to the effect on the vitality and viability of the centre.
7. Policy TC4 of the Local Plan specifically addresses non-retail frontage, as its heading indicates. It indicates the Council will grant planning permission for non-retail uses at ground floor level within the 'Key Retail Frontage' of town centres provided it would not result in the non-retail frontage exceeding 30% and more than two adjacent non-retail uses, regardless of shop frontage width. Epping town centre already exceeds the 30% limit and there are two non-retail uses adjacent to the appeal premises. However, the proposals would retain a retail unit and frontage and would not therefore add to the non-retail frontage or the percentage of units in non-retail use. The proposal would therefore not conflict with policy TC4.
8. The Council are concerned that the size of the unit, 60 sqm, would reduce its capability to function as a retail use and could undermine its future viability leading to vacancy or the introduction of a non-retail use. They have however provided no evidence on the sustainable size of a unit in the centre. Indeed the appellant has identified a number of units in the centre of a similar size to that proposed and which are operating presently, I saw these on my site visit. The Council would have control of any future changes of use of the property to non-retail uses.
9. The smaller unit size is not proven to be unsustainable and could add to the range of shop sizes in the centre. The proposal retains a retail use at the front of the site with a retail frontage in the Key Retail Frontage. I am satisfied that the proposal would not harm the retail function of the centre or therefore its vitality and viability. On this basis the proposal would not conflict with policy TC4 and whilst there is a conflict with part of policy TC3 the proposal would not conflict with its overall aim which is to protect the vitality and viability of the

district's town centres. On balance therefore I conclude that the proposal would not conflict with the development plan overall.

10. The emerging policy E2 in the Draft Local Plan, at point F, indicates the Council may permit residential development within primary retail frontages where it is above ground floor and would not lead to a loss of main town centre use, floorspace or frontage. As the proposal retains a viable retail unit, does not result in the loss of retail frontage. I am satisfied that there is no conflict with the policy. Whilst reference is made to loss of floor space, the space to be lost in this application is, from what I saw on my site visit, ancillary office and storage space rather than direct retail shop space.
11. For the reasons given above I conclude that the proposed development would not result in material harm to the vitality and viability of Epping Town Centre. Consequently it would not conflict with the Development Plan and in particular policies TC3 and TC4 of the Local Plan which seek to protect the vitality and viability of town centres.

Other matters

12. The appellant raises the issue of the Council being unable to identify a five year housing land supply as providing additional support for the proposal. The Council have not responded to the matter. From the information before me, in the appellant's statement, it would appear the Council cannot demonstrate a five year housing land supply. However, as the appeal relates to retail policies these are not policies for the supply of housing. Moreover, as the proposal would only result in one net additional unit of accommodation over and above the extant permission this would not significantly address the shortfall or the housing land supply position. The proposal is however an application for housing and so should be considered in the context of the presumption in favour of development. I attach minor positive weight to the fact the proposal provides additional housing in the light of a shortfall in the housing land supply.
13. The appeal site is a listed building, grade II, and the site is located within a conservation area. The Council are satisfied that the proposed rear extension and conversion works would not harm the Grade II listed building or any features of special architectural interest that it possesses or the conservation area. Nothing in the evidence before me, or from what I saw on site, leads me to a different conclusion and therefore I am satisfied that, the listed building, and the character and appearance of the conservation area would therefore be preserved.

Overall conclusions and conditions

14. The proposal would not undermine the retail function and character of the town centre by virtue of the retention of a viable shop unit at the front of the site which would maintain the premises' retail frontage in the Key Retail Frontage of the town centre. The proposal would therefore not result in material harm to the vitality and viability of the town centre. There is a minor positive benefit associated with the development resulting from the increase in housing. The proposal does not conflict with the development plan as a whole and therefore the proposal should be approved without delay in line with bullet point one for decision-taking in paragraph 14 of the Framework.

15. I have considered the Council's suggested conditions in the context of the Planning Policy Guidance and have imposed a plans condition to ensure clarity. A condition on external materials is required in the interest of the appearance of the site given the sensitive nature of the building and location.
16. For the reasons given above I conclude that the appeal should be allowed.

Kenneth Stone

INSPECTOR