
Appeal Decision

Site visit made on 30 May 2017

by Patrick Whelan BA(Hons) Dip Arch MA MSc ARB RIBA RTPI

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

Decision date: 27 June 2017

Appeal Ref: APP/E2205/W/17/3170333

Unit 3+4 Weavers Yard, rear of 108+110 High Street, Tenterden TN30 6HT

- 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 J Ferguson against the decision of Ashford Borough Council.
 - The application Ref 16/00803/AS, dated 27 May 2016, was refused by notice dated 14 October 2016.
 - The development proposed is described as the change of use of the building from a commercial unit to a live/work residential unit.
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. The proposal appeared at my site visit to have been partly implemented, including the proposed alterations to the ground floor openings, the removal of the stair in unit 2, and the provision of a bedroom and bathroom upstairs. I also noted a toilet on the ground floor of the proposed commercial unit.

Main Issue

3. This is whether the permitted or an alternative employment use is unviable and the effect of the proposed change of use on the viability of neighbouring active uses.

Reasons

4. Policy CS1 of the Core Strategy 2008 (CS) sets out the Council's principles for sustainable development including the provision of a commercial environment conducive to encouraging new and existing businesses. Policy TRS7 of the Tenterden and Rural Sites Development Plan Document 2010 (TRS) resists proposals which would lead to the loss of employment premises in Tenterden unless the unit is no longer viable for the existing or an alternative employment use and that it has remained unsold or unlet for a substantial period of time despite attempts to sell or let it. TRS1 requires minor development in Tenterden not to result in the displacement of other active uses such as employment, leisure or community uses in the area.
 5. The two units in this appeal were granted planning permission in 1990 for light industrial use, since when unit 4 has stood vacant, and unit 3 has had only a short occupation by a dog-grooming business at the time the appeal was made.
-

6. The access from the High Street to Weavers Yard has a weight limit, and the space for turning long vehicles is hampered by the dimensions of the Yard. This may restrict the viability of the units for light industrial use. Having regard to the history of these units, the constraints identified by the appellant, and the evidence relating to employment growth in purpose built locations elsewhere, the prospect of their occupation by a business in light industry is limited.
7. However, in the same Yard are two other units; a flower shop and a craftsman's workshop. While the workshop was closed at the time of my visit, it displayed a variety of hand-built timber products, and the flower shop was notably busy, and displaying a variety of plants and pots and signage which animated the Yard, acting as a draw to footfall passing along the High Street.
8. The appellant has marketed the units for over two years, and I note the particulars and the advertising board describe the units as business/ craft units. The report on the marketing campaign concludes that there has been no meaningful interest and it identifies the potential causes of this. However, as there is no record of responses or viewings it is unclear if these conclusions were drawn from the marketing campaign. It is also unclear if the lack of interest suggested a change in the terms under which it was offered and whether this may have made a difference to the appeal of the units.
9. Moreover, the marketing campaign is described as having been made under the existing B2 light industrial classification and its summary identifies the main problem includes this use classification. It is not clear if this may have influenced the attractiveness of the units for an alternative form of employment use, distinct from the light industrial use.
10. I must therefore conclude, on the basis of the evidence before me, including the present occupation of the adjacent units by alternative uses to light industrial, that it has not been demonstrated that the units are unviable for an alternative employment use. The proposed change of use would thus be in conflict with TRS policy TRS7.
11. Weavers Yard is not an isolated example of businesses located behind the buildings fronting the High Street. While some of the lanes off the High Street connect to housing, others lead to secondary, less traditional commercial activities which complement the higher profile frontage businesses. They enrich the commercial and business activity in and around the High Street. In such circumstances, the loss of these two units from employment use would undermine the attractiveness of the remaining two units in the Yard.
12. While I note that the proposal would retain a commercial unit in part of the ground floor of the building, in this secondary location such a small floor area may diminish its attractiveness to potential occupiers, and there is no evidence that there is a need for units of such size. This would be compounded by the potential incompatibility between the residential use and the commercial use of the remaining units. In these respects, the proposal would be likely to lead to the displacement of the other commercial uses in Weavers Yard, contrary to policy TRS policy TRS1.
13. I note that the Council raised no objections in terms of character and appearance, living conditions and highway safety. I appreciate too the advice in paragraph 47 of the National Planning Policy Framework (the Framework),

for local planning authorities to boost significantly the supply of housing. However, these positive factors do not outweigh the harm which would result from the loss of the commercial use of these units.

14. I acknowledge the appellant's reference to paragraph 51 of the Framework, which describes the circumstances when applications to change commercial buildings into residential use should be permitted. However, I note its proviso that this is where there are no strong economic reasons that suggest such development would be inappropriate, whereas I have identified above the direct and consequential effects of the proposal on employment.
15. I appreciate the tenet of paragraph 22 of the Framework regarding policies avoiding the long term protection of sites allocated for employment use. I agree that there is now little chance of the units being used for light industry. However, it has not been shown that there is no reasonable prospect of the units being used by an alternative employment use or one with more commercial compatibility with the use of the other units in Weavers Yard.
16. I conclude that while the occupation of the units for light industrial use is unlikely, and the proposal would be likely to secure part occupation of the units, it has not been demonstrated that an alternative employment use is unviable. Moreover, the proposed change of use would be likely to lead to the displacement of the other commercial uses in Weavers Yard.
17. I note the Council's reference to policies SP1 and EMP2 of the Draft Ashford Local Plan; however, given the progress of the Plan towards adoption, I can accord them only limited weight. I also see less relevance of CS Policy CS7 which concerns strategic employment development. Notwithstanding this, the proposed development would be in conflict with CS Policy CS1 and TRS policies TRS1 and TRS7.

Other Matters

18. The appeal site is within the Tenterden Conservation Area (CA). The Council raises no objection to the proposal in this regard, and given the size of the units and the limited nature of their alteration, I can identify no harm from this proposal to its significance. The proposal would not harm the character or the appearance of the CA in accordance with the requirements of section 72 of the Act, the special attention to which, the Courts have determined, I am required to give considerable importance and weight.

Conclusion

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

Patrick Whelan

INSPECTOR