



Appeal Decision

Site visit made on 12 June 2017

by Rachel Walmsley BSc MSc MRTPI

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

Decision date: 11 July 2017

Appeal Ref: APP/B5480/W/17/3168015

**6 Elm Parade, Saint Nicholas Avenue, Elm Park, Hornchurch, Essex
RM12 4RH**

- 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 Faith Bulbul against the decision of the Council of the London Borough of Havering.
 - The application Ref P1722.16, dated 24 October 2016, was refused by notice dated 13 January 2017.
 - The development proposed is change of use from a1 fruit and veg shop to a5 including shop front and internal changes as per plans and external flue.
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Decision

1. The appeal is dismissed.

Main Issue

2. This is the effect of the proposal on the vitality and viability of Elm Park Minor District Centre.

Reasons

3. Policy D16 of the Local Plan¹ seeks to achieve the right balance of retail and non-retail uses in a town centre to ensure its vitality and viability. The appeal site is within the Elm Park Minor District Centre. For this area policy DC16, amongst other criteria, permits an A5 use provided *the proposal will not result in the grouping of 3 or more adjoining A2-A5 uses, and the proposal will not result in the proportion of non-retail uses within the relevant frontage exceeding 33%.*
4. Policy DC16 was adopted prior to the National Planning Policy Framework (the Framework). The Framework supports the identification of shopping frontages and the uses permitted in such locations, to help promote competitive town centres. Policy DC16 is therefore compliant with the Framework and as a result I give weight to it.
5. Adjoining the appeal site at No 7 Elm Parade is an A5 use, next to this at No 8/9 Elm Parade is an A2 use. The change of use, therefore, would result in a

¹ Havering London Borough, Core Strategy and Development Control Policies Development Plan Document (Adopted 2008)

grouping of 3 or more adjoining A2-A5 uses. Furthermore, it is common ground between parties that the change of use would exceed the 33% of non-retail uses within the relevant frontage, which, in the absence of any evidence to suggest otherwise, I concur. In light of policy DC16, therefore, the development would result in an inappropriate mix of uses which in turn would be harmful to the vitality and viability of the district centre.

6. The appellant reports that the existing shop unit has been on the market for over a year. I have no evidence of this marketing and its results or indeed of the difficulties the current owner has in making the existing use viable. It was not apparent from my observations on site that the current business was failing for the change of use to be considered an exception to policy in the interests of the vitality and viability of the retail centre.
7. I have no doubt that the change of use would result in a new shop front that would help improve the environmental quality of the shopping area. However, it was not apparent from my observations on site, and nor is it evident from the evidence before me, that the premises are rundown for any improvements to environmental quality to weigh heavily in favour of the appeal.
8. I also recognise the benefit of employing local people and that no objections were made to the change of use by the highways or environmental protection department of the Council. However, I find nothing within the evidence to suggest that people could not be locally employed for a retail use. When considered alongside the limited objections stated, I find little evidence to overcome the harm to the vitality and viability of the shopping centre as identified.
9. I have details of a decision made by the Council concerning a change of use at 5-7 Collier Row Road, Romford. The officer report recommended refusal but the decision notice shows that the application was approved. I have no details explaining why the officer's decision was overturned. Furthermore, the decision refers to an area that is different to the appeal site. I also have details of an officer's report recommending the approval of a change of use from A1 (retail) to A3 (restaurant) and A5 (hot food takeaway) at 3 Billet Lane, Hornchurch. However I do not have the outcome of this decision to know if the development was permitted. Notwithstanding this I note that the site is within a 'fringe area' as defined by policy and in an area that is different to the appeal site. My attention is also drawn to other retail centres where the mix of uses breaches the retail policies within the development plan. However, I do not have the details relating to the circumstances within which these uses came about. For these reasons I cannot relate the circumstances of these cases to the current proposal for them to carry favourable weight. Notwithstanding this, each appeal must be determined on its individual merits and I have reached my conclusions on the facts and circumstances pertaining to this particular case.
10. In all, therefore, I find that the proposal would be harmful to the vitality and viability of the Elm Park Minor District Centre and therefore would be contrary to policy DC16 of the development plan.

Conclusion

11. For the reasons given, the proposed development would be contrary to the development plan and none of the material considerations indicate that the decision should be made, other than in accordance with the plan. The appeal is, therefore, dismissed.

R Walmsley

INSPECTOR