The Planning Inspectorate

Appeal Decision

Site visit made on 8 April 2019

by S Edwards MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 May 2019

Appeal Ref: APP/E1210/W/18/3219259
42-44 High Street, Christchurch BH23 1AY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
- The appeal is made by Coffee#1 Ltd against the decision of Christchurch Borough Council.
- The application Ref 8/18/1307/COU, dated 22 May 2018, was refused by notice dated 9 November 2018.
- The development proposed is change of use of the unit from Class A1 to a mixed A1/A3 use (coffee shop) at ground floor only (amended description).

Decision

1. The appeal is allowed, and planning permission is granted for change of use of the unit from Class A1 to a mixed A1/A3 use (coffee shop) at ground floor only (amended description) at 42-44 High Street, Christchurch BH23 1AY, in accordance with the terms of the application Ref 8/18/1307/COU, dated 22 May 2018, subject to the attached schedule of conditions.

Procedural Matter

2. The Council and the appellant agreed to amend the original description of the proposal during the course of the application in order to clarify that the change of use would solely relate to the ground floor level. I have therefore adopted the amended description, as detailed within the decision notice.

Main Issue

3. The main issue is the effect of the proposal on the vitality and viability of Christchurch Town Centre.

Reasons

4. The appeal site lies prominently at the junction of High Street and Millhams Street. As defined in the Christchurch and East Dorset Local Plan Part 1 – Core Strategy (2014) (CS), it is situated within a Primary Shopping Frontage (PSF), at the heart of the designated Primary Shopping Area. The premises are currently vacant and were previously in use as a shop (A1).

5. Policy CH6 of the CS allows non-retail uses within the PSF, subject to a number of criteria. Permitted uses within this area are restricted to A2, A3, D1 and D2 uses. The policy requires that development proposals do not result in a continuous frontage of more than three non-retail uses, and the appearance of a shopfront appearance is retained. The proposal would accord with these requirements.

6. However, Policy CH6 also seeks to ensure that non-retail uses do not cumulatively amount to more than 30% of all ground floor units within the PSF. Policy KS7 of the CS reiterates these criteria, but this is a more general policy, which distinguishes between primary and secondary shopping frontages. The evidence submitted by the Council indicates that non-retail uses already exceed 30% within the PSF. It would be exacerbated by the proposed change of use, which would therefore fail to accord with Policies CH6 and KS7 in that respect. This is not contested by the appellant.

7. Notwithstanding the above, each proposal has to be assessed on its individual merits, having regard to the particular circumstances of the case. The presented evidence demonstrates that an extensive marketing exercise of the vacant premises has been carried out for a relatively long period of time to attract a suitable retailer, but this remained unsuccessful. The lack of demand from prospective retailers has not been disputed by the Council. In addition, the appellant considered a number of other vacant units falling within the A3 use class, prior to seeking permission for the change of use of the appeal premises. These were however considered too small for the appellant to operate effectively.

8. The sale of beverages and food items to be taken away (which include the purchase of retail goods) contributes to approximately 40% of the total trade. Rather than being incidental, the retail element therefore constitutes a significant aspect of the proposed use. This is an important consideration in respect of the effect of the proposal on the level of retail provision within the PSF, which the Council is particularly concerned about.

9. The proposal would provide an active frontage within the Primary Shopping Area in the town centre, by bringing back into use premises which have been vacant for some time. Additionally, the scheme would enable a Grade II Listed Building to be put to a viable use consistent with its conservation, which would help sustaining and enhancing the significance of this designated heritage asset, in accordance with paragraph 192 of the National Planning Policy Framework (the Framework).

10. I accept that the Council is seeking to preserve the retail function of Christchurch Town Centre and is concerned with the proliferation of non-retail uses within this area. To that effect, Policy CS6 of the CS sets a strict threshold with regard to the proportion of non-retail uses considered acceptable within PSFs.

11. However, rather than adversely affecting the vitality and viability of Christchurch Town Centre, the proposed use would complement the offer in this area and attract footfall for longer periods of the day and evening, which in turn would be beneficial to existing retailers. In that regard, the proposed scheme would support Policy CH1 of the CS, which sets out Christchurch Town Centre Vision. Furthermore, by retaining an important A1 element, the proposal would not have a significant effect on the retail function of the town centre, which I attach weight to.

12. Although the proposal would not accord with one of the requirements of Policies CH6 and KS7 of the CS, limited evidence has been submitted to demonstrate that the proposal would have a materially detrimental effect on the vitality and viability of Christchurch Town Centre. This limits the weight which can be ascribed to this conflict.

13. On the other hand, the marketing evidence suggests that the premises have failed to attract interest from prospective retailers and may remain vacant for the foreseeable future. The conflict with the development plan would be outweighed by the benefits resulting from the proposal, by enabling a vacant Grade II Listed Building to be brought back into viable use. For these reasons, I consider that the proposed mixed use, which includes a significant retail element, would not erode the level of retail provision within the PSF to the extent that it would materially have an adverse effect on the vitality and viability of Christchurch Town Centre.

Other Matters

14. The appeal site lies within the Christchurch Central Conservation Area and I am therefore required to pay special attention to the desirability of preserving or enhancing the character or appearance of this designated heritage asset. This area includes a wide range of retail, food and drink uses, which the proposal would be compatible with. Therefore, in the absence of any substantive evidence to the contrary I am satisfied the proposal would preserve the character and appearance of the conservation area.

15. As noted above, the premises form part of a Grade II Listed Building. The proposal before me is for a change of use. Any physical alterations are likely to require separate Listed Building Consent and separate planning permission.

16. Concerns have been raised by third parties regarding the competition which would occur as a result of the proposal. However, this is not a planning consideration which would, therefore, have no bearing on my decision.

Conditions

17. I have considered the conditions suggested by the Council's Committee Report, making minor amendments where necessary, to ensure compliance with the tests as set within the Framework and the Planning Practice Guidance. In addition to the standard time limit, I have imposed a condition specifying the relevant drawings, as this provides certainty. It is also considered necessary to restrict the use as a coffee shop, due to the primarily retail function of the town centre, and the hours of operation to protect the living conditions of nearby residents.

Conclusion

18. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be allowed.

S Edwards

INSPECTOR

SCHEDULE OF 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: Location Plan received 23.05.18, Existing Elevations – Drawing no. A-G/1084-17 P3 and Existing Ground Floor Plans – Drawing no. A-G/1084-17 P1.

3) The premises shall be used as a coffee shop (mixed Use Classes A1 and A3) serving coffee, other hot and cold drinks, sandwiches and similar light refreshments for consumption on or off the premises, and for no other purpose.

4) The use hereby permitted shall only take place between the hours of 0700 and 1900 Mondays to Saturdays and 0830 and 18.00 on Sundays.