



Appeal Decision

Site visit made on 13 May 2019

by J Spurling BSc(Hons) DipTP PGDip(Law) PGDip(CMI) MRTPI MCMI

an Inspector appointed by the Secretary of State

Decision date: 09 July 2019

Appeal Ref: APP/A5840/W/19/3221882

42 Peckham Rye, London SE15 4JR

- 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 Ms Fairhead against the decision of the Council of the London Borough of Southwark.
 - The application Ref 18/AP/1892, dated 8 June 2018, was refused by notice dated 6 August 2018.
 - The development proposed is Change of Use from A1 (Shop) to A4 (Cocktail Bar) with an A1 (Shop) Ancillary Use.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. From the information before me, the examination of the Draft New Southwark Plan is yet to be completed and policies within it could be subject to change, and therefore I afford them little weight.
3. While reference to new signage has been made on the proposed plans, any new signage would require separate advertisement consent. No external alterations are proposed. I have determined the appeal on that basis.

Main Issue

4. The main issue is the effect of the development on the vitality, viability and mix of services in the protected shopping frontage of Rye Lane.

Reasons

5. The appeal site is located on the west side of Peckham Rye. This side of Peckham Rye predominantly comprises three storey terraces, with commercial uses at ground floor level. The site comprises a three storey mid terraced building, of which the appeal proposal relates to the ground floor.
6. The proposal is to convert the existing retail unit to an A4 use. It is intended that some ancillary A1 retail use would be retained in the form of selling products connected to cocktail-making as well as vinyl records, in keeping with the nature of the proposed business.

7. Policy 1.9 of the Southwark Plan (2007) (SP) outlines that within protected shopping frontages, planning permission for changes of use away from Use Class A1 will only be granted provided that five criteria are met. In particular, criteria ii) requires that the premises have been vacant for a period of at least 12 months with sufficient effort to let the property being demonstrated. In this case, whilst the premises have been vacant for more than 12 months, no marketing information has been submitted to demonstrate a lack of demand for retail use. The proposal is therefore contrary to this policy.
8. The appellant has put forward evidence, including drawing on the Council's retail studies, with regard to the number of vacant A1 units in the surrounding area. Furthermore, she has stated that large retailers and the increasing promotion of online shopping is reducing the demand for A1 units. The appellant has also referenced an Article 4 direction that has removed permitted development rights allowing the change of use of a building falling within an A4 use class to a building within an A1 (shops) use, A2 (financial and professional services) and A3 (restaurant) use classes on the basis that the proposed cocktail bar falls within the same use class as a pub and would therefore be the type of use, which they consider that the Council would want.
9. Furthermore, the appellant has shown that the existing commercial properties in Peckham Rye are skewed towards retail rather than other uses such as A2 and that this is above the national average. They also contend that the demographic profile of potential customers would match the intended market of the proposed business, which would meet the objectively assessed needs in line with the requirements of the National Planning Policy Framework (the Framework).
10. Whilst the information is substantive, much of it is either generic to the wider centre or is Borough wide rather than being site specific. In this regard, it is not a substitute for a site-specific marketing exercise as envisaged by Policy 1.9. In my view, it has not been sufficiently demonstrated that there is no demand for a Class A1 use at this site. The loss of the A1 unit would increase the number of non-retail uses in Rye Lane. The retail offer would therefore be lessened within Rye Lane, and if I were to allow the appeal, the available of A1 units in the parade would be significantly diminished. I therefore conclude that the appeal proposal would unacceptably harm the vitality, viability and mix of services in the protected shopping frontage of Rye Lane. The development therefore would be contrary to Policy 1.9 of the SP and the overarching aims of Strategic Policy 3 of the Southwark Core Strategy (2011) and Policy 4.8 of the London Plan (2016). Amongst other matters, these seek to ensure shopping areas remain viable and vital through providing a mix of uses including retaining retail uses. It would also be at odds with the retailing aims of the Framework.

Other Matters

11. The site is in an accessible location, close to services and facilities and transport links. I acknowledge that there is one letter of support from a member of the public who considers that the proposal would increase activity in the area, thus improving surveillance and making it more vibrant. However, these matters do not outweigh the harm that I have found.

Conclusion

12. The proposed development would not accord with the development plan as a whole and there are no other considerations which outweigh this finding. Accordingly, for the reasons given, the appeal is dismissed.

J Spurling

INSPECTOR