
Appeal Decision

Site visit made on 19 June 2019

by S Hanson BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 July 2019

Appeal Ref: APP/P3610/W/19/3221969

Office rear of 405 Kingston Road, Ewell KT19 0BT

- 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 Arash Shababi (Ewell Buildings Limited) against the decision of Epsom & Ewell Borough Council.
 - The application Ref 18/01172/FUL, dated 7 November 2018, was refused by notice dated 29 January 2019.
 - The development proposed is change of use from office (A2) to residential (C3a).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The National Planning Policy Framework (the Framework) was revised on 19 February 2019 and this post-dates the Council's decision notice. As the Framework has not materially changed in respect of this appeal, no parties will have been prejudiced by my having regard to the latest revision of the Framework.
3. The application was submitted by Mr Arash Shababi under the company name Epsom Parrs. The appellant's agent confirmed in writing that Ewell Buildings Limited is the applicant company for the appeal.

Main Issue

4. The main issue is whether the loss of the employment use has been adequately justified, having regard to local and national planning policy.

Reasons

5. The appeal site is to the rear of 405 Kingston Road which is a commercial premises with residential accommodation above. No 405 is within a parade of shops and businesses which occupy the west side of an access road that runs parallel to Kingston Road, a busy dual carriageway. Opposite is a similar parade of shops and businesses with residential units above. This urban area is a mix of commercial and residential and forms part of a local retail centre. The appeal property is located within Pinewood Place to the rear of No 405. This backland area provides access to the rear of several properties, elements of commercial use and parking for residents and businesses.

6. The appeal property has an existing A2 (financial and professional services) use, which I am satisfied is an employment use. The proposal seeks to change its use to residential.
7. Policy DM24 of the Council's Development Management Policies Document 2015 (DMP) seeks to prevent the loss of employment floorspace outside of identified employment locations and Epsom Town Centre, unless one of two criteria is met. These are: to demonstrate that the existing use has a significant adverse effect on residential amenity; or to demonstrate genuine evidence of marketing without success, to indicate the site is no longer suitable for its existing or other employment use. Furthermore, the policy requires marketing for a minimum period of 18 months at an appropriate rate for its location and condition.
8. There is no substantive evidence to indicate that the first criterion has been met and the appellant does not appear to rely on it. The appellant indicates the appeal property has been advertised on a website known as Gumtree and supplies some evidence to suggest that it has not been let and that it is difficult to find a tenant. However, there is no detailed information of how any marketing was undertaken or whether it was at an appropriate rate. Moreover, correspondence from the previous tenant suggests occupation in November 2018 and the above mentioned correspondence dates from Jan 2019. Thus, there is insufficient evidence of marketing over at least 18 months in any event. For these reasons, it has not been adequately demonstrated that the appeal property is no longer suitable for existing or other employment uses. Consequently, the second criterion has also not been met.
9. The loss of employment use has therefore not been adequately justified and consequently the proposal would be contrary to the requirements of Policy DM24 of the DMP. It would also conflict with the aims and objectives of the Framework, which seeks to support economic growth.

Other Matters

10. I acknowledge the appellants argument about the addition of the one unit to the supply of housing in an area with good access to local services and facilities. Furthermore, it is accepted that there would be no harm to the character and appearance of the area. However, these matters are insufficient to outweigh the policy conflict as detailed above.
11. The Council references the Local Development Framework Core Strategy 2007 on its decision notice but does not cite any specific policies. Nor does it appear to cite conflict with any of these in the officer report. Nonetheless, the unjustified loss of employment use and conflict with Policy DM24 of the DMP is sufficient to withhold planning permission.

Conclusion

12. For the reasons set out above I conclude that the appeal should be dismissed.

S Hanson

INSPECTOR