



Appeal Decision

Site visit made on 26 June 2019

by A McCormack BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17th July 2019

Appeal Ref: APP/N5660/W/18/3219373 42-43 Lower Marsh, London SE1 7RG

- 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 Balance (Waterloo) Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/03572/FUL, dated 8 May 2018, was refused by notice dated 8 November 2018.
 - The development proposed is change of use of ground floor from shop (Use Class A1) to a mixed use (Use Class A1/A3).
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposed development, as set out in the Council's documents, has been used in this Decision letter. From what I have seen and read, I find that the Council's description explains more fully the nature of the proposal in terms of the existing and proposed uses of the appeal property. Furthermore, this description is used by the appellant in their original planning statement submitted with the application and also within their appeal statement. The description on the application form does not provide this detail. For these reasons, I find it appropriate and reasonable to refer to the Council's description in my Decision.

Main Issue

3. The main issue is whether the proposal would result in the unacceptable loss of a retail unit and cause harm to the character of the primary shopping area in the 'Lower Marsh / The Cut' Central Activities Zone (CAZ).

Reasons

4. The appeal relates to a property on Lower Marsh within the primary shopping area known as 'Lower Marsh / The Cut'. The area is a thriving centre for retail and other commercial and town centre uses and has a busy street market. Moreover, commercial and retail units in the surrounding streets are well-occupied and there is a low level of vacant units as a result.
5. Criteria a.(ii) in Policy ED6 of the Lambeth Local Plan 2015 (LP) says the Council will support the vitality and viability of the CAZ by maintaining the predominant retail function in primary shopping areas. Furthermore, Policy PN1 of the LP states that at least 50% of original ground floor units in the CAZ frontages should be in A1 retail use.

6. I have had due regard to the submitted evidence and note the appellant's point that in their study of the Lower Marsh area, of 86 active units identified, 44 were in A1 use as described by the Valuation Office Agency (VOA) classification. Based on these figures, I calculate this would amount to about 51% of the total units surveyed. Moreover, it is argued that a further 17 units could also fall within that VOA classification such as units in a mixed A1/A3 use, as proposed.
7. Whilst I note the findings of the appellant's study, I find that the land use descriptions from the VOA do not fully reflect or correspond with planning land uses. For example, 'shops and premises' and 'cafes and premises' described by the VOA do not necessarily correspond fully with the 'A1' retail planning use set out in the Use Classes Order¹.
8. As a result, I find that several units listed in the appellant's evidence, including cafes and restaurants and takeaways, are not solely within an A1 planning use, as the appellant argues. Furthermore, I note the appellant has identified 'Opticalise Opticians' at 33 Lower Marsh as being in A1 use. However, as an optometrist or optician, this unit is in a D1 use in planning terms, as is noted within the Council's submissions, and as defined by the Land Use Gazetteer. These discrepancies in the submitted information have been confirmed by my observations when I visited the site and its surroundings.
9. The Council has provided its own assessment of the uses to be found within the relevant ground floor frontages of the CAZ. The findings are based on the most recent Experian Goad data (May 2018) available at the time. Accordingly, I have also had regard to this as a material consideration. This assessment shows that only around 43% of units in Lower Marsh are in retail (A1) use which is significantly below the 50% requirement set out in Policy PN1. Furthermore, I note that this is a 4% decline in A1 retail units in the area since 2017 and that the proportion of units in A3 use has increased by 1.8% to 15.8%.
10. In light of the above, it is evident to me that the appellant's study is based on unreliable and inaccurate information which does not correspond to the planning use classes of the surveyed ground floor units. Moreover, the information on some units within the relevant area is missing and details are included which relate to units outside of the relevant area. As a result, taking all such details and matters into account, I give only limited weight to the findings of the appellant's study.
11. In my view, the identified decline in the proportion of solely A1 units in the area would only be exacerbated by this proposal and the proportion of such units in the area would fall further below the 50% requirement set out in Policy PN1. In addition, the proposed change of use to a mixed A1/A3 use would not maintain the predominant retail function of the primary shopping area in the CAZ, as sought by Policy ED6.
12. I acknowledge that the proposal would result in no physical change to the appearance of the host property or the wider street scene and that the proposal would potentially assist the Council in reducing the number of vacant units in the area. However, from what I have seen, there are very few vacant units in the CAZ. I have also considered that other impacts of the proposed change of use could be addressed by suitably worded planning conditions. Notwithstanding this, I find these matters to have limited weight. As a result, they do not outweigh the significant adverse impact that the loss of a unit in sole A1 use would have on the character of the primary shopping area and the CAZ, as set out by the relevant policies of the LP. Moreover, I have had regard to the aim of the CAZ to promote

¹ Town and Country Planning (Use Classes) Order 1987 (as amended)

and safeguard the role of 'Lower Marsh / The Cut' as a centre for local needs and specialist independent retailing.

13. Consequently, I conclude that the proposal would result in the unacceptable loss of a retail unit which would cause significant harm to the character of the primary shopping area in the 'Lower Marsh / The Cut' CAZ. Therefore, it would be contrary to Policies ED6 and PN1 of the LP.

Conclusion

14. For the above reasons, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

A McCormack

INSPECTOR