



Appeal Decision

Site visit made on 27 June 2019

by G Roberts BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 19 July 2019

Appeal Ref: APP/A5270/W/19/3225865

120 Uxbridge Road, Hanwell, London, W7 3SU

- 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 Lee Newman (Fade to Black) against the decision of the London Borough of Ealing.
 - The application Ref. 183592FUL, dated 29 July 2018, was refused by notice dated 26 October 2018.
 - The development proposed is change of use of the ground floor shop from A1 to A1/A4.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the site address as it appears on the application form, but with a slight modification. The description of development is based on the Council's decision notice as this is a more accurate and concise description of the proposed development.
3. The appeal documents included a basement plan, but from the description of development and the details on the application form, it is clear that this is not relevant and that the change of use relates only to the ground floor, denoted by the red line, on drawing No. 120/01.

Main Issue

4. The main issue in this appeal is the effect of the proposed development on the vitality and viability of Hanwell District Centre (HDC).

Reasons

5. The appeal site is located within HDC and forms part of the designated Primary Frontage (PF), which, on this part of the Uxbridge Road, includes No's 110 – 120 (even).
6. Policy 1.1 of the Ealing Development Strategy 2026 Development Plan Document (EDS) seeks to ensure that the vitality and viability of existing town centres is maintained and enhanced in accord with the designated retail hierarchy. Policy 2.7 of the EDS deals specifically with HDC and confirms that, in line with Policy 1.1, the centre will be enhanced through new retail and housing development, other improvements and the consolidation of the designated shopping frontages. This approach is consistent with Policies 2.15 and 4.8 of the London Plan (LP), which, amongst other objectives, emphasise

- the need for local plans and planning decisions to sustain and enhance the vitality and viability of existing centres, identify primary and secondary shopping frontages and bring forward policies that will prevent the loss of retail and other related facilities.
7. Policy 4B of the Ealing Development Management Development Plan Document (EDM) continues by confirming that within PF retail (A1) uses should comprise 100% of the designated frontage at street level. Part B of the policy also confirms that within Secondary Frontages (SF) retail uses should comprise not less than 40% of the frontage to allow the flexibility for A2, A3, A4 and A5 uses, that complement and enhance the retail function of the centre. These policies are consistent with paragraph 85 b) of the National Planning Policy Framework (Framework), which says that planning policies should define the extent of primary shopping areas and make clear the range of uses that will be permitted in such locations, as part of an overall positive strategy for the centre in question.
 8. The appeal site is currently used as a coffee shop and is operated under the fascia, Fade to Black. The parties agree that the current use is retail (A1). The use operates on the basis that customers can order food and beverages from a counter and then collect these purchases for consumption off-site, allowing the unit to operate primarily as a retail use. Customers can also consume the food and beverages they purchase on site, with orders delivered to the customers table. The tables and other bar stools provide space for approximately 20 – 30 customers. The retail (A1) use is dependent, therefore, on the retail operation having a higher volume than the café operations (where customers consume their purchases on site).
 9. Whilst I have no reason to disagree with the above definition, no evidence has been provided, in the form, for example, of turnover and/or customer transactions, to demonstrate that the existing business does operate on this basis.
 10. In relation to the appeal proposal, this would involve selling alcoholic cocktails (A4 use) on three days of the week, from midday until 20.00 hours on Thursdays, midday to 23.00 hours on Friday and midday to 24.00 hours on Saturday. This compares with the existing hours of the coffee shop, which, in the week, are 07.30 to 16.30 hours and on the weekend 09.00 to 17.00 hours. No supporting evidence, such as forecasts of the volume of sales or transactions expected from the A4 use or how this would compare with the current breakdown between the retail operation and café operation, has been submitted by the appellant.
 11. Based, therefore, on the evidence before me and my observations on site, the proposed A4 use, in conjunction with the existing café operation, would be likely to result in these non-retail uses becoming the primary use of the unit. This finding is supported by the fact that the proposed A4 use would operate for just under half the week and for long periods outside the current opening hours of the retail use. In addition, the A4 use would have access to seating for approximately 20 to 30 customers and possibly more, if customers stood. The current use of this large number of tables already suggests that the café operation is a significant part of the business. The inclusion of the A4 use would, in my view, result in a position whereby, combined, these non-retail uses would become the primary use of the appeal site.

12. Given the above, the resulting loss of the existing retail use would be contrary to Policy 4B of the EDM. No justification for the loss of this retail use has been provided. Whilst the appellant has referred to the feedback from their customers, who enjoy the ambience of the coffee shop, but would prefer stay longer if they were able to purchase alcoholic drinks, that is not a justification for permitting a change of use that is in direct conflict with the retail policies of the development plan.
13. The appellant has also referred to the Clocktower Café at 151 Uxbridge Road, which is permitted to sell alcohol. However, the Council have responded by indicating that this Café benefits from planning permission for a restaurant and wine bar use, under reference 01810/4 and that the unit is located within a designated SF, where, as I confirmed above, such uses are permitted provided certain criteria are met. The appellant has not challenged the Council's evidence, and it does not, therefore, affect the findings I have reached on this issue.
14. Furthermore, during my site visit, I observed that within this part of the PF (No's 110 -120 (even) Uxbridge Road) there are already a number of non-retail uses. The retail role and function of this part of the PF already appears, therefore, to have been weakened and undermined. The further loss of a retail unit, that occupies a prominent location within HDC, would exacerbate this position and result in significant harm to the centre.
15. I find, therefore, that the proposed change of use would result in the non-retail uses becoming the primary use of the appeal site and that the resulting loss of the retail use would cause harm to the vitality and viability of HDC and would be contrary to Policies 2.15 and 4.8 of the LP, Policies 1.1 and 2.7 of the EDS and Policy 4B of the EDM.

Other Matters

16. The Council's Delegated Report and Appeal Questionnaire confirm that the appeal site lies within the Hanwell Clock Tower Conservation Area (HCTCA). Paragraph 190 of the Framework requires consideration to be given, therefore, to the impact of any new development on the conservation area. However, the proposed development simply involves a change of use of the existing internal floorspace. No external works are proposed. In view of this, the proposed development would not have any material impact on the HCTCA and there is, therefore, no need for me to consider this issue further.

Conclusions

17. For the reasons given above and having taken all other matters into account, I conclude that the appeal should be dismissed.

G Roberts

INSPECTOR