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## Appeal Decision

Site visit made on 20 August 2019

**by Andrew Smith BA (Hons) MA MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 27 August 2019**

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**Appeal Ref: APP/E0345/W/19/3228388**

**60 Christchurch Road, Reading RG2 7AZ**

- 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 Manjit Gill against the decision of Reading Borough Council.
  - The application Ref 181571, dated 4 September 2019, was refused by notice dated 4 February 2019.
  - The development proposed is change of use of ground floor to Class A3 café/restaurant; part single, part two-storey rear extension; changes to shopfront and kitchen extract equipment on rear flat roof.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. It was clear from my site inspection that the works required to construct the single storey part of the proposed rear extension have already commenced and appear to be substantially complete. Indeed, it is my understanding that separate planning permission<sup>1</sup> has, in fact, already been granted for these particular works. For the avoidance of doubt and notwithstanding that construction work has already commenced, my responsibility is to consider the appeal based on the scheme as it appears on the plans submitted.
3. It is apparent from the evidence before me that the emerging Reading Borough Local Plan Submission Draft (March 2018) (the emerging Local Plan) has been submitted for examination and that examination hearings have taken place. Indeed, post hearing advice from the examining Inspector (the advice) with respect to additional main modifications and related matters appears in the evidence before me. The advice sets out that final conclusions regarding soundness and procedural compliance will be given through a report to be produced following consultation on the proposed main modifications.
4. The appellant considers that the advice, which sets out specific guidance/recommendations with respect to five emerging policies, provides an indication that other emerging Local Plan policies should now be afforded great weight. However, it is also apparent that the examining Inspector's report will cover main soundness and main modification issues that arose during the examination and that are not dealt with in the advice.

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<sup>1</sup> Ref: 170254

5. Whilst I note reference in the advice to the emerging Local Plan potentially being formally adopted as soon as October 2019, I have given relevant emerging policies limited weight in my consideration of this appeal. This is because, in the absence of information to the contrary, there may be outstanding objections to them, and their content may yet change prior to being formally adopted.

### **Main Issues**

6. The main issues are:

- The effect of the proposed change of use on the retail function of a Local Centre;
- The effect upon the living conditions of neighbouring residential occupiers, with particular regard to cooking odours; and
- Whether or not appropriate provisions would be made for the storage of refuse/waste.

### **Reasons**

#### *Retail function of a local centre*

7. The appeal site is located within a frontage that is designated as a Local Centre and which forms part of the network and hierarchy of centres within the Borough. The site, which is presently vacant, was last occupied in a Use Class A1 retail capacity. Policy CS27 of the Core Strategy (adopted January 2008) sets out that a strong retail character will be maintained in the centres identified as being part of the network and that significant groupings of non-retail uses in one part of a centre will not be allowed. Indeed, within the supporting text to this policy it is made clear that retail uses form the main contributor to the vitality and viability of centres and that, to ensure their overall health, they need to continue to maintain a strong retail character.
8. Policy DM13 of the Sites and Detailed Policies Document (adopted October 2012, amended January 2015) (the SDPD) sets out that, amongst other requirements, within Key Frontages, which include the Christchurch Road Local Centre, development involving a net loss of A1 retail to other 'centre uses', which include cafés/restaurants, shall only be permitted in certain circumstances. These circumstances are that there would continue to be no more than 3 consecutive units in non-retail use and that the proportion of the total length of the Key Frontage in retail use would, in the case of Christchurch Road, continue to exceed 50%.
9. It is apparent from the evidence before me, and from my own inspection, that the intended change of use would result in 4 consecutive units within the frontage being in non-retail use. It is nevertheless evident that a predominant retail presence exists in other parts of the frontage to the west of the site. Indeed, in accordance with the main parties' calculations, the proposed change of use would result in the proportion of the total length of the Key Frontage remaining in A1 retail use reducing to only fractionally below the 50% threshold set out in Policy DM13. However, the proposal would result in a noticeable cluster of other 'centre uses' in the particular part of the Key Frontage that contains the appeal site and would thus not promote either a strong retail character or a healthy centre.

10. Policy RL3 of the emerging Local Plan sets out, when compared to Policy DM13, differing standards for considering development proposals within Key Frontages. Indeed, it sets out tests that incorporate both A1 retail and A2 financial and professional uses. As acknowledged by the Council, the proposal would accord with emerging Policy RL3's requirements. However, for the reasons set out in Procedural Matters above, I afford only limited weight to the requirements of this policy.
11. The National Planning Policy Framework (February 2019) (the Framework) supports a suitable mix of uses being provided in centres and states that planning policies should define the extent of town centres and primary shopping areas and make it clear the range of uses permitted in such locations as part of a positive strategy for the future of each centre. Whilst Policy CS27 requires that a strong retail character be maintained in centres, its supporting text recognises that other uses still play a valuable role. Policy DM13 also acknowledges the role that other centre uses can play and its aim, as clarified in its supporting text, is, in-part, to ensure that each centre contains a diverse range of uses complementing a core of retail. Policies CS27 and DM13 are thus both broadly consistent with the aims of the Framework, are not out-of-date and should be afforded full weight in decision making.
12. I acknowledge that the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (the GPDO) incorporates provisions, under Schedule 2, Part 4, Class D, that would allow the ground floor level of the appeal site to operate as a café/restaurant for a temporary period of up to 2 years without planning permission. It is however apparent that a temporary change of use would not, by its very nature, hold the potential to have a lasting or long-term effect upon the vitality and viability of a centre. The proposal before me is for a permanent change of use, and I must consider it on this basis.
13. The GPDO also contains, under Schedule 2, Part 3, Class C, provisions that would allow for the permanent change of use of the ground floor of the appeal site to a café/restaurant. This would however be on the condition that the developer apply to the local planning authority for a determination as to whether prior approval would be required as to several different matters, including whether it would be undesirable for the change of use to occur in a key shopping area. Considering the prior approval process that would need to be followed, it has not been demonstrated that this route would represent a realistic or viable fallback position for the appellant.
14. Whilst I acknowledge that the proposal would allow for the reoccupation and active use of an existing vacant unit, it would not support the network and hierarchy of centres contained within the Borough where a strong retail character is vital for their long-term vitality and viability. For the above reasons, the proposed change of use would have an adverse effect upon the retail function of a local centre and would thus cause harm. The proposal conflicts with Policy CS27 of the Core Strategy and Policy DM13 of the SDPD in so far as these policies require that a strong retail character will be maintained in the centres identified as being part of the network and that significant groupings of non-retail uses in one part of a centre will not be allowed.

### *Cooking odours*

15. The plans before me include an indication of where it is intended that, to the rear of the site, kitchen extraction equipment would be installed. As stated by the appellant, the end user of the ground floor area of the appeal site is not yet known such that it is currently not possible to confirm the precise specification of the cooking equipment and mechanical services to be installed. Indeed, I accept that would be problematic to produce a detailed odour assessment at this stage. I also accept that, depending on the precise end user, there would be the potential for limited cooking activities to be generated and for associated odours to be easily managed.
16. I have reviewed comments received from the Council's Environmental Health Officer, where it is noted that a condition could be attached to any planning permission requiring the submission of a detailed odour management plan. I acknowledge that it could be the case that extraction equipment over and above that preliminarily envisaged may be required to meet the individual needs of the eventual end occupiers. However, from the evidence before me, I consider this to be unlikely. In any event, as noted by the Environmental Health Officer, the option of submitting a separate future planning application for such equipment would be available in the unlikely event that such an approach was deemed to be necessary. I am content that a planning condition could be applied to satisfactorily guard against the potential for odour nuisance to occur.
17. For the above reasons the proposal would not cause harm to the living conditions of neighbouring residential occupiers, with particular regard to cooking odours. The proposal accords with Policy DM4 of the SDPD in so far as it requires that development will not cause a significant detrimental impact to the living environment of existing or new residential properties, in terms of smell.

### *Refuse storage*

18. An external bin storage area, as depicted upon the proposed plans before me, exists to the rear of the site. This is large enough to incorporate 3 standard sized domestic bins. As confirmed by the appellant, this storage area is intended to solely serve the residential use at first floor level, such that it would not be a combined storage area for domestic and commercial uses. The area is suitably accessible and appears commensurate in size for its intended purpose.
19. With respect to the proposed café/restaurant at ground floor level, the appellant has confirmed that arrangements would be made for waste and recycling to be collected on a daily basis by a private contractor such that an external storage area would not be required. The Council's Waste Management Guidelines note that different commercial businesses produce varying quantities of waste and that storage and collection arrangements shall vary accordingly. I also note that the proposed ground floor plan indicates the provision of an internal store area, which could potentially be used for the temporary daily storage of café/restaurant waste. In this instance I am satisfied that a planning condition could be imposed to provide full details and assurances with respect to how refuse/waste would be stored at the property and the precise intended collection arrangements, as well as ongoing compliance with any details agreed.

20. For the above reasons, appropriate provisions would be made for the storage of refuse/waste such that no harm would be caused in this context. The proposal accords with Policy CS2 of the Core Strategy and Policy DM4 of the SDPD in so far as these policies require that development promotes layouts and designs that provide adequate space to facilitate waste storage, reuse, recycling and composting and that development will not cause a significant detrimental impact to the living environment of existing or new residential properties, in terms of smell.

### **Other Matters**

21. I have noted objections/concerns raised by various interested parties to this appeal, including with respect to matters such as parking, delivery arrangements, air quality, potential noise disturbance/anti-social behaviour and the effect upon neighbouring living conditions. However, as I have found the development proposal to be unacceptable for other reasons, it is not necessary for me to explore these matters further as part of this decision.
22. The proposal would provide investment and a limited number of employment opportunities. It would also provide a facility and bring a vacant unit back into active use within a Local Centre. I also acknowledge that the proposed café/restaurant use would offer an opportunity for members of the community to meet and interact, although this benefit would be tempered by the presence of similar existing facilities within the same centre. These contributions, I consider, would be relatively modest and would not outweigh the significant harm I have identified.
23. The development conflicts with the development plan when read as a whole, and material considerations do not lead me to a decision otherwise.

### **Conclusion**

24. For the above reasons, the appeal is dismissed.

*Andrew Smith*

INSPECTOR