



Appeal Decision

Site visit made on 1 October 2019

by L Perkins BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th December 2019

Appeal Ref: APP/Y5420/W/19/3224824

479-481 High Road, Tottenham, London N17 6QA

- 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 Mark Byrne of Tahir Group against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2019/0188, dated 21 December 2018, was refused by notice dated 15 February 2019.
 - The development proposed is: Change of use of vacant ground floor premises from A1 (retail) use to a mixed A3/A5 (restaurant and hot food takeaway) use, incorporating replacement shopfront and plant/extract system.
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Decision

1. The appeal is allowed and planning permission is granted for: Change of use of vacant ground floor premises from A1 (retail) use to a mixed A3/A5 (restaurant and hot food takeaway) use, incorporating replacement shopfront and plant/extract system, at 479-481 High Road, Tottenham, London N17 6QA in accordance with the terms of the application, Ref HGY/2019/0188, dated 21 December 2018, subject to the conditions set out in the Schedule at the end of this Decision.

Main Issues

2. The main issues are the effect of the proposal on:
 - the vitality and viability of the town centre, and
 - the safety, health and well-being of the community.

Reasons

Vitality and Viability

3. The appeal site is a vacant double-fronted ground floor retail unit within the Primary Shopping Frontage of the Tottenham High Road/Bruce Grove District Centre. The proposal is to convert this to a mixed restaurant and hot food takeaway.
4. Within Primary Shopping Frontages, Policy DM42 of the Haringey Development Management Development Plan Document 2017 (the DM Plan) permits the use of ground floor units for appropriate town centre uses subject to specific criteria. These include the overall number of units in non-retail use (including extant planning permissions) not exceeding 35% across the entire frontage,

unless it can be demonstrated the proposal will significantly enhance the vitality and viability of the centre.

5. A Council survey undertaken in August 2018 indicated the percentage of non-retail units was 44.7%. A survey referred to by the appellant, undertaken in December 2018, indicated this figure was 38.96% without the development, rising to 40.26% with the development. Based on either source, the proposal does not accord with Policy DM42 A (a) in this regard. However, the supporting text of this policy states there is scope for applying the policy flexibly in exceptional circumstances.
6. The evidence indicates the ground floor of the appeal premises have been vacant for 12 months and marketed but with limited interest from potential occupants. The Council has not disputed this evidence and so in these circumstances, in my judgement, exceptional circumstances apply and a flexible approach to Policy DM42 is justified.
7. It appears to me the appeal proposal is for a retail-related function and would present an active frontage to High Road for a considerable part of the day. Moreover, the evidence indicates A1 retail uses are located either side of the appeal premises. In these circumstances, in the context of Policy DM42, despite the conflict noted above, I consider the loss of retail floorspace acceptable and that the effect of the proposal on the vitality and viability of the town centre would not be harmful.
8. Policy DM47 of the DM Plan permits proposals for hot food takeaways subject to specific criteria. These include where (a) it can be demonstrated that the proposal will not result in an overconcentration or excessive clustering of hot food takeaways having regard to the existing number of hot food takeaways within the centre or frontage; and (b) it can be demonstrated that there will be no adverse impact on the vitality and viability of the centre.
9. In respect of criterion (a), the Council indicates there are 11 hot food takeaways within 200 metres of the appeal site. The appellant states that of the 77 units in their survey 4 are currently lawfully either in Class A5 use or in a mixed use incorporating an element of A5 usage. Neither party have provided me with details to be able to interrogate the data relied on. Moreover, I have not been provided with a definition of 'overconcentration' or 'excessive clustering' in the context of this policy. As such, I am not satisfied the proposal would lead to either.
10. In the context of DM47 criterion (b), the effect of the proposal in this regard is not clear. But in this case, I consider the vacant nature of the appeal premises and the undisputed marketing exercise undertaken are significant material considerations which weigh in favour of the appeal proposal. I conclude the effect of the proposal on the vitality and viability of the town centre would not be harmful and I find no conflict with Policy DM47 noted above.
11. My attention has also been drawn to Policy SP10 of the Haringey Local Plan 2013 (the Local Plan) and Policies 2.15, 4.7 and 4.8 of the London Plan 2016 (as amended) (the London Plan). Together, these protect and enhance town centres and their roles having regard to the impacts of clusters of uses, but in the circumstances I find no conflict with these policies either.

12. My attention has also been drawn to paragraph 85 of the National Planning Policy Framework. In broad terms this seeks that a positive approach is taken to the adaptation of town centres by allowing them to diversify with a suitable mix of uses. In the specific circumstances of this case I find no conflict with this either.

Community Safety, Health and Well-being

13. The Council's second reason for refusal identifies an effect of the proposal on the safety, health and well-being of residents in the area and representations have been received in this regard. But limited information has been provided to evidence what the effect would be or what the magnitude of the effect would be.
14. Therefore, in this case, based on the evidence provided, in respect of this main issue it has not been possible to identify any harmful effect of the proposal on the safety, health and well-being of residents of the area and, accordingly, it has not been possible to identify conflict with the policies identified in the Council's decision in respect of this main issue.
15. The relevant policies identified are DM47 of the DM Plan, Policy SP10 of the Local Plan and Policies 2.15, 4.7 and 4.8 of the London Plan. Together, these permit hot food takeaway shops in specific circumstances and protect and enhance town centres and their roles having regard to the impacts of clusters of uses.

Other Matters

16. The appeal site is within the Bruce Grove Conservation Area. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Representations have been received objecting to the proposal due to its effect on the character and appearance of the area, including the conservation area, and I have had regard to these representations.
17. However, the Council does not object to the proposal on this basis and given the degree of variation seen in buildings on this street in terms of their shopfronts and their general external appearance, I see no reason to object either and so I am satisfied the proposal would preserve the character and appearance of the area, including the conservation area.
18. Representations have been made about signage and that the proposal would house a national chain. Signage would be subject to advertisement regulations and, even if a national chain were to occupy the unit, the planning system does not exist to prevent competition between different operators or protect the private interests of one person against the activities of another.

Conditions and Conclusion

19. The Council has suggested conditions which I have considered taking account of advice in the National Planning Policy Framework and Planning Practice Guidance. As a result I have amended them for consistency, enforceability, clarity and reasonableness.

20. In addition to an implementation condition, it is necessary to impose a condition specifying the relevant plans to provide certainty and a condition controlling the hours of use is necessary to protect the living conditions of neighbouring occupiers. Subject to these conditions and for the reasons given above the appeal should succeed.

L Perkins

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2961/PL100A, 2961/PL210B, 2961/PL211A and unnumbered Elevations HVAC Layout revision B.
- 3) The use hereby permitted shall only take place between the following hours:
1100 - Midnight Mondays - Fridays
1100 - Midnight Saturdays
1100 - 2300 Sundays.