



Appeal Decision

Site visit made on 7 January 2020

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 January 2020

Appeal Ref: APP/M1595/W/19/3238238

The Pullman Tavern, 61 High Street, Grays RM17 6NX

- 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 A Coates (TC Project Management Ltd) against the decision of Thurrock Borough Council.
 - The application Ref 19/00181/FUL, dated 30 January 2019, was refused by notice dated 2 April 2019.
 - The development proposed is described as the "change of use of ground and basement to allow A1 (retail) use".
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Decision

1. The appeal is allowed and planning permission is granted for the change of use of ground and basement to allow A1 (retail) use at The Pullman Tavern, 61 High Street, Grays RM17 6NX in accordance with application Ref 19/00181/FUL, dated 30 January 2019 and subject to the conditions on the attached schedule.

Main Issue

2. The main issue is whether the proposal would result in the loss of an important community facility in the area.

Reasons

3. The appeal site forms a former public house known as the Pullman Tavern which was granted planning permission for its change of use from an A4 (drinking establishments) use to an A3/A4 (restaurant & cafes/drinking establishments) use¹. The appellant argues that following a period of marketing, it has not been able to secure an operator for the proposed restaurant or drinking establishment and thus, applied to convert the building to an A1 (shops) use. Nevertheless, the Council's delegated report confirms that it seeks to retain the A3/A4 use and that the redevelopment of the site was permitted with the retention of the public house or restaurant in this location. Moreover, the appellant has failed conclusively to demonstrate that the use of the site for an A3/A4 use cannot be secured.
4. Policy CSTP10 of the Thurrock Borough Council Core Strategy and Policies for Management of Development 2015 (the Core Strategy) seeks to safeguard existing community facilities and their loss will only be allowed in circumstances where appropriate facilities of an equal or better quality are provided as part of a development. While this can be viewed as a just and reasonable requirement to protect existing community facilities, the National Planning Policy Framework (the Framework) does not require such measures and for this reason, it is not fully

¹ 18/01469/FUL dated 5 December 2018

consistent with its aims and reduces the weight it can be afforded to moderate. This is consistent with the findings of the Inspector that considered the appeal at the Bricklayers Arms². Moreover, while Policy CSTP10 of the Core Strategy seeks to replace any facility that may be lost, it does not specifically require the submission of marketing evidence to support any application to change the use of a premises that is deemed to represent a community facility.

5. Furthermore, I note condition 8 attached to permission 18/01469/FUL restricted the use of the building to an A3 use or an A4 use. Therefore, it is quite reasonable that the appellant may have chosen to convert the appeal site to a restaurant without an element of a drinking establishment. Consequently, the A4 use would have been given over to the A3 use and the community facility would be lost without any need to provide details of marketing evidence. Moreover, it is clear that other public houses are available within and around the town centre, along with a new 'Wetherspoons' having received planning permission to convert the State Cinema on George Street into a public house. The Council has also failed to provide evidence to substantiate its allegation that there is no shortage of A1 premises in Grays.
6. Thus, the proposed change of use to an A1 unit would not result in the loss of an important community facility. It would not be in conflict with Policy CSTP10 of the Core Strategy, the specific requirements of which are specified above.

Other Matters

7. The Council have referred to a decision at the Bricklayers Arms whereby an appeal to convert the public house into flats was dismissed. However, the appeal for the Bricklayers Arms, according to the decision letter, received a considerable number of local representations regarding the loss of the community facility and did not have planning permission for an A3 use. Therefore, I do not find this appeal decision comparable to the development before me.
8. I acknowledge the representation from a local trader objecting to the change of use to A1. However, I have no compelling evidence before me to demonstrate that the A1 use proposed would be in direct competition with the trader's business, thereby resulting in its closure.

Conditions

9. I have considered the Council's suggested conditions in accordance with the advice contained within the Planning Practice Guidance and the Framework. I have reworded them where necessary in the interest of concision and enforceability. In addition to the standard time condition, it is necessary for certainty to define the plans with which the scheme should accord.
10. In order to protect the amenities of adjoining occupiers it is necessary to agree a scheme of noise insulation. The Council's suggested condition refers to an A3/A4 use when the proposal seeks an A1 use, and requires works to the residential units above, which are not part of the development before me. Thus, I have reworded the condition so that it refers to noise insulation between the appeal site and the residential units above. Further conditions to protect neighbour amenity are also required to restrict the hours of the development and the opening hours of the A1 unit, along with details of any ventilation or extraction systems.

² APP/M1595/W/19/3154574 dated 5 July 2017

11. The Council also suggest a condition requiring the submission of materials before the development commences. However, as the development seeks a change of use, I do not consider this particular condition necessary.

Conclusion

12. For the reasons given above, and having regard to the development plan when read as a whole, the appeal is allowed.

Graham Wyatt

INSPECTOR

Schedule of Conditions

1. The development hereby permitted must be begun not later than the expiration of 3 years from the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan 001 Rev P1, Proposed Basement Plan P-301 and Proposed Ground Floor Plan P-302 Rev A.
3. Prior to the first occupation of the development hereby approved, a scheme for noise insulation of the proposed A1 unit and the residential development above shall be submitted to and agreed in writing with the local planning authority. The scheme shall identify and state the glazing specifications for all the affected windows, including acoustic ventilation, where appropriate. The scheme should also include details of internal insulation between ground and first floor level and measures to limit noise breakout from the A1 unit. The noise insulation measures and specification shall be implemented within the A1 unit prior to first occupation of the development and shall be permanently retained as approved thereafter.
4. No construction works in connection with the development shall take place on the site at any time on any Sunday or Bank/Public Holiday, nor on any other day except between the following times: Monday to Friday 0800 - 1800 hours and Saturdays 0800 - 1300 hours. Unless in association with an emergency or the prior written approval of the local planning authority has been obtained. If impact piling is required, these operations shall only take place between the hours of 0900 - 1800 hours on weekdays.
5. No ventilation or extraction units shall be erected unless and until details of the ventilation and extraction equipment have been submitted to and approved by the local planning authority. Any measures required by the local planning authority to reduce noise from the plant or equipment shall be completed prior to the ventilation and extraction equipment being brought into use and retained and maintained as such thereafter.
6. The premises shall only be open to customers between 0700 hours and 2300 hours on Sundays to Thursdays and between 0800 hours and 2300 hours on Fridays and Saturdays. No customers shall be present upon the premises outside the permitted hours.

~End~