



Appeal Decision

Site visit made on 27 January 2020

by Gareth Wildgoose BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 February 2020

Appeal Ref: APP/A0665/W/19/3241522

51-52 High Street, Farndon, Chester CH3 6PU

- 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 Will Pollard against the decision of Cheshire West & Chester Council.
 - The application Ref 19/00732/FUL, dated 21 February 2019, was refused by notice dated 8 October 2019.
 - The development proposed is change of use from shop to dwelling.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is the effect of the proposal on the vitality and viability of Farndon Local Retail Centre.

Reasons

3. The appeal site consists of a double fronted mid-terraced property that faces High Street. The shopfront at ground floor level is accessed via an external stair adjoining an off-street parking area that lies between the building and the footway. The shopfront also currently provides the primary access to the existing residential property which is located at the rear of the retail premises and at first floor level. The building adjoins an undercroft at the side which provides a gated access to a parking area serving neighbouring properties and an existing rear yard also adjoins a car park serving The Farndon, a public house to the opposite side. The surrounding area includes a mix of dwellings and commercial premises, some of which include residential accommodation.
4. The appellant has indicated that the property had been historically used as two terraced cottages. However, the appeal is necessarily determined based on its lawful planning use which consists of a shop (A1 use) at the front with residential accommodation (C3 use) elsewhere within the building towards the rear and at first floor level. It was evident at the time of my visit that internal works within the property had taken place and were ongoing following the closure of the shop subject of this appeal. Some rooms previously used for retail were informally in use as part of the well-established residential accommodation (C3 use) within the wider property. However, when taking into account that the shopfront remains in place, I observed that the internal works of themselves are not of an extent that would preclude use of those parts of the property for a retail use (A1 use) if otherwise occupied for those purposes.

5. The site is designated within Farndon Local Retail Centre and in such locations, Policy ECON1 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies, adopted January 2015 (LP Part 1), amongst other things, seeks to promote competitive town centre environments. Policy DM15 of the Cheshire West and Chester Local Plan (Part Two) Land Allocations, adopted July 2019 (LP Part 2), supplements that approach and amongst other things, indicates that within district and local retail centres that the loss of A1 uses to other uses will only be supported where it meets relevant criteria. The criteria includes that it would not lead to a loss of A1 retail use which would harm the vitality and viability of the centre, that there would not be an excessive concentration of non-retail uses in any shop frontage undermining the retail function of the centre and that it has been adequately marketed.
6. With regard to proposed non-A1 retail uses, the supporting text of Policy DM15 also indicates that in local retail centres, the Council will require evidence of reasonable continuous marketing for a period of at least 12 consecutive months immediately in advance of a planning application under current market conditions, after which other appropriate uses could be considered.
7. Policy 1.1 of the Farndon Neighbourhood Development Plan 2010 to 2030, made March 2018 (NP), is also relevant to the proposal. The policy, amongst other things, states that proposals that result in the loss of employment premises will be required to demonstrate that the premises have been empty and actively marketed for at least 12 months at a reasonable rate and that the premises are no longer viable for any employment. The policy also indicates that the loss of retail and other employment premises within Farndon itself to wholly residential use will be resisted subject to the right of development which would be permitted under the General Permitted Development Order. In this case, there would be no such fallback position for a residential use of the shop subject of this appeal due to the location of the property within a Conservation Area and I have determined the appeal on that basis.
8. The proposal would result in the loss of an existing retail premises within Farndon Local Retail Centre. In response, the evidence provided in support of the appeal includes correspondence which suggests that unsuccessful marketing of the property took place for in excess of 12 months between 31 July 2017 and 5 November 2018. Reference is also made to previous marketing for an 8-month period. However, based on the evidence before me, the marketing that took place related to the property as a whole, including the commercial businesses that were operating at the time and the residential accommodation at the rear and first floor level.
9. With regard to the above, there is no substantiated evidence of the value of the businesses at the time of marketing or an independent valuation of the pre-existing dwelling. Nonetheless, to my mind, it is reasonable that the marketing that has taken place as indicated in the sales particulars would have included an uplift in value to reflect the presence of what was identified as an existing profitable commercial business with a healthy turnover. Based on the evidence, the marketing therefore took place at a level that would appear to be significantly higher than if the property were to be marketed at a reasonable rate to reflect current market conditions with an empty retail premises.
10. It follows that the unsuccessful marketing of the property that has taken place to date does not demonstrate that a future use of the appeal premises for retail

purposes would not be viable. The appellant has asserted that a new retail use within the premises would be commercially unsustainable. In that respect, there is evidence in an accountant's letter which indicates that the profitability of the businesses previously operating from the property involved the DIY store being subsidised by the appellant's kitchen and interiors business which continues to operate via an online presence. Furthermore, there are also views expressed in support of the proposal offered by another estate agent in terms of the marketing that has taken place - albeit referring to lower valuations than in the sales particulars before me.

11. Notwithstanding the above, during my visit, I observed that the surrounding area contains a mix of existing retail, local services and facilities along High Street and the hinterland which provide for a range of day to day needs for local residents. The goods sold included some DIY materials, together with a dry-cleaning service offered by the previous shop within the appeal site. The existing premises are not currently in active use for retail purposes and I note that correspondence from estate agents indicate that a sale of a full residential conversion of the property would be more likely to be achieved. However, such circumstances and a vacant unit are not in itself evidence of a lack of demand for retail given that a number of premises nearby remain in A1 use and vacancy levels nearby are otherwise relatively low.
12. The evidence before me does include an indication of nearby premises having also been recently marketed, including a public house and a shop. However, at the time of my visit, I observed that the shop unit in question was operating as an A1 use and in any case, based on the evidence it would not be a direct parallel with the proposal for valuation purposes. Consequently, in the absence of clear details of adequate marketing of the appeal property with an empty shop unit at a reasonable market rate and in current market conditions, the evidence before me is not sufficient to conclude that there would be no realistic prospect of an alternative retail use occupying the shop unit.
13. The loss of a potential retail premises in the location proposed would of itself reduce the concentration and choice of retail opportunities in Farndon Local Retail Centre and could reduce the level of footfall of customers arising from linked trips to the local centre. As such it would undermine its retail function, thereby having an adverse effect on its viability and vitality in circumstances where it has not been demonstrated by robust evidence that an alternative retail use of the shop premises would not be feasible or viable.
14. A planning permission previously granted by the Council (ref: 09/11400/FUL) has been drawn to my attention for change of use of a part residential and part commercial building to two residential units elsewhere in High Street, Farndon. However, it is evident that the proposal in that case was subject to a different development plan context as it preceded the adoption of the LP Part 1, LP Part 2 and the NP and the circumstances were not a direct parallel in terms of the approach to marketing of the premises. I have, in any case, reached my own conclusions on this appeal proposal based on the evidence before me.
15. I conclude that the proposal would harm the vitality and viability of Farndon Local Retail Centre. The proposal, therefore, would conflict with Policy ECON1 of the LP Part 1, Policy DM15 of the LP Part 2 and Policy 1.1 of the NP. The policies are consistent with the National Planning Policy Framework (the Framework) in so far as it seeks to support the role that town centres play at

the heart of local communities, by taking a positive approach to their growth, management and adaptation.

Other Matters

16. The appeal property is located within Farndon Conservation Area which includes the historic core of the village that adjoins the River Dee and is centred around High Street, Farndon Parish Church and sections of wider hinterland including along Churton Road and Barton Road. The concentrated arrangement of historic buildings along the curved alignment of High Street on the approach to the River Dee, despite some variation in architectural styles, form and materials, contribute to the significance of the Conservation Area. In that context, the change of use involves no external alterations and would retain the appearance of the host building when viewed along High Street. I, therefore, consider that the proposal would preserve the character, appearance and significance of Farndon Conservation Area. Nevertheless, the absence of harm in that respect is a neutral factor.
17. A noise assessment was undertaken between 17 - 19 September 2019 in relation to the ground floor front room of 51-52 High Street, Farndon and assessed in the context of World Health Organisation guidelines for external amenity areas and desirable indoor ambient noise levels for new dwellings as set out in BS8233:2014 "Guidance on sound insulation and noise reduction for buildings". The noise measurements of 39.9 dB L_{Aeq} between 0700 - 2300 on 18 September 2019 were above the recommended ambient noise level for living rooms of dwellings (35 dB L_{Aeq, 16 hour}), with the primary influence being identified as traffic noise.
18. Notwithstanding the above, the size and layout of the property would provide opportunities for relaxation and undisturbed sleep in existing habitable rooms that are an increased distance from the sources of traffic noise and activity within and at the front of the public house at ground floor level. Reasonable living conditions for residents could, therefore, be achieved by applying the relaxation of internal target levels by 5 dB as provided for in BS8233:2014. Such an approach would be necessary and desirable if the development were otherwise considered to be acceptable, as additional noise insulation would likely involve external alterations to the front elevation of the property that could otherwise harm the character and significance of Farndon Conservation Area. However, the absence of concern in that respect is a neutral factor.
19. It has been drawn to my attention that Farndon Parish Council have not objected to the proposal and no correspondence was received from local residents. The appellant has also expressed concerns in terms of the Council approach when dealing with the application. I also note that the layout of the property and access arrangements as a single residential dwelling would be more convenient for its occupiers. However, such matters do not outweigh the harm and conflict with the development plan I have otherwise identified.

Conclusion

20. For the reasons given above and taking all other matters into consideration, I conclude that this appeal should be dismissed.

Gareth Wildgoose

INSPECTOR