

Appeal Decision

Site visit made on 28 August 2020

by S M Holden BSc(Hons) MSc CEng MICE CTPP FCIHT MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7 September 2020

Appeal Ref: APP/Q1445/W/20/3248044

66-68 Lewes Road, Brighton BN2 3HZ

- 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 Serhat Yilmaz against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/01948, dated 27 June 2019, was refused by notice dated 19 December 2019.
 - The development proposed is described as: 'retrospective application for change of use of existing license from A1 (retail unit) to Sui Generis (coin-operated launderette and service wash).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Since this application was determined there has been a change to the Use Classes Order. Class A has been revoked and replaced with Class E a broader category of retail, business and service uses. However, as a launderette continues to be defined as a Sui Generis use, the application has not been affected by the change to the Order. I am therefore satisfied that no party has been prejudiced by my determination of the appeal on that basis. The change of use has already taken place.

Main Issue

3. The main issue is the effect of the change of use on the supply of retail premises within the Lewes Road shopping area.

Reasons

4. Lewes Road is one of the city's district shopping centres. It provides a variety of convenience and comparison goods, together with a range of non-retail services. It therefore fulfils an important function as a focus for the community. The Brighton & Hove Local Plan (Local Plan) acknowledges that such centres suffer from competition from other forms of retailing and that a degree of flexibility of uses is required to maintain their vitality and viability. Policy SR5 of the Local Plan therefore only permitted certain changes of use where a series of criteria were met. The first of these sought to maintain a clear predominance of retail (namely A1) uses. The supporting text sought to retain at least 50% of the units as shops.

5. The Council's health check of the Lewes Road centre in 2018 indicated that the proportion of shops had fallen to 49% overall and to only 40% within the primary shopping frontage. The loss of the unit therefore fails to meet criterion (a) of Policy SR5. It has also reduced the retail frontage by between 15.4m-17m, which is over the 15m limit set out in criterion (b) of the policy. In these circumstances even though No 66-68 was part of a larger unit in the past, its loss has further reduced the proportion of shops within the centre to 48.1%. As the proportion has already fallen below 50%, permitting additional non-retail services would contribute to a further decline in retail activities.
6. Policy SR5 requires all four of the criteria within it to be met for a change of use to be acceptable. I acknowledge that a launderette offers a service to local residents and could attract pedestrian activity into the centre. However, as there are other similar facilities in the area any increase in footfall is likely to be minimal. In order to complete a wash and dry users could remain in the area for some time and undertake combined trips visiting other shops in the vicinity. However, as carrying laundry and other goods could present difficulties, it is equally likely that users would come to do their washing and leave. In any event even if the launderette did generate additional visits into the area compliance with criterion (c) of the policy does not offset the conflict with the first two.
7. Policy CP4 of the Brighton & Hove City Plan Part One (City Plan) also aims to maintain and enhance the shopping centres by encouraging a range of facilities and uses. However, this should not be at the expense of failing to preserve the predominance of retail uses (A1). Although the launderette is making use of the building, it is doing so without having first demonstrated that there was no demand for a small retail unit. This significantly weakens the case for permitting the change of use.
8. The change of use therefore conflicts with Policy SR5 of the Local Plan and CP4 of the City Plan, both of which seek to maintain and enhance defined prime shopping frontages in the city's District Centres.
9. I conclude that the proposal conflicts with the development plan and there are no other considerations which outweigh that conflict. For this reason, the appeal is dismissed.

Sheila Holden

INSPECTOR