



Appeal Decision

Site visit made on 23 October 2020

by A Thompson BSc BTP MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 03 December 2020

Appeal Ref: APP/L2250/W/20/3248371

4 Ryland Place, Folkestone, CT20 1RE

- 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 Rasenthiram Navaneethan against the decision of Folkestone and Hythe District Council.
 - The application Ref Y19/1009/FH, dated 1 September 2019, was refused by notice dated 1 November 2019.
 - The development proposed is change of use of ground floor from dwelling house (Class C3) to retail (class A1).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I was unable to gain access to the site on 23 October 2020, however, I am satisfied that with the benefit of the comprehensive set of photographs of the site and surrounding area set out in the Appellant's Statement of Case and my site visit, I have seen everything I need to determine the appeal.
3. As the application that is subject to this appeal was submitted prior to 1 September 2020, it will continue to be decided on the basis of the uses specified in the earlier Use Classes Order¹.
4. The Places and Policies Local Plan (PPLP) was adopted on 16 September 2020 and I have therefore taken this into account and accorded Policies RL8, T2 & HB1 of the PPLP, which are quoted in the Council's decision notice, appropriate weight in respect of this appeal. I note that following the adoption of the PPLP, the Shepway District Local Plan Review (the Review) is superseded and therefore Policies TR12 & SD1 of that plan, which are also quoted in the Council's decision notice, are no longer relevant.
5. In addition, on my site visit, I noted a statutory notice affixed to a lamppost advising that Kent County Council intended to extend the Bellevue Street Area Parking Zone (Zone G) to include a number of other roads, including Ryland Place and The Tram Road. The Order was due to come into effect from Monday 26 October 2020.

¹ Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020.

6. Both the appellant and the Council have been given the opportunity to comment on the changes in the development plan and the extension of the area parking zone in relation to the determination of this appeal.

Main Issues

7. The main issues are:
 - (a) whether the location of the proposed development is an acceptable location for a retail use having regard to the provisions of national and local policy;
 - (b) the effect of the proposed development on highway safety in the surrounding streets;
 - (c) the effect of the proposed development on the living conditions of nearby residents.

Reasons

Location of development

8. Retail development is defined in the National Planning Policy Framework (Framework) as a main town centre use. The appellant's state that the site is edge of centre, but no substantive information has been submitted to demonstrate that the location meets the definition of an edge of centre site set out in the Glossary of the Framework. From my site visit it appears the appeal site is in a primarily residential area, with no established shopping centres evident nearby. I consider that the site is an out of centre location and I note that the Council determined the application on this basis.
9. The ground floor of the appeal property was previously in retail use until around 1979 and the proposals, in effect, seek to reinstate the former use of the property. While this is a material consideration, it has limited weight as there have been substantial changes in town centre and wider planning policy since 1979. I must determine the current proposals in accordance with the policies of the development plan unless material considerations indicate otherwise.
10. Policy RL8 of the newly adopted PPLP allows the development of town centre uses out of centre provided that the sequential approach set out in the Framework and Planning Practice Guidance has been followed. It is for the applicant to demonstrate compliance with the sequential test and in this case no substantive evidence on this matter has been submitted.
11. In the absence of any evidence that the sequential test has been met, I find that the development would be contrary to Policy RL8 and the Framework which amongst other things seek to ensure the vitality and viability of town centres is maintained. However, as the proposal would provide a retail unit of less than 30sqm it appears unlikely that the development would have a significant adverse impact on the vitality and viability of nearby centres. I also note and give weight to the former use of the property as a shop. Thus, in this instance, I do not consider that the failure to undertake a sequential assessment would be sufficient to justify refusal of the scheme if it were otherwise acceptable.

Highway safety

12. The appeal site is located on the corner of a junction between two busy "A" roads, Ryland Place (A2033) and The Tram Road (A260). There is a pedestrian

crossing immediately beyond the junction on the A260. There are double yellow lines immediately outside the proposed shop frontage and for some distance along Tram Road in the direction of the town centre. There are also double yellow lines on the other side of The Tram Road opposite the proposed development and a short distance up Ryland Place (on both sides of the carriageway). Beyond the stretches of double yellow lines, there are further limitations on parking on The Tram Road associated with the pedestrian crossing and in connection with a bus stop on Ryland Place.

13. The extension of the area parking zone would appear to mean that the remaining nearby stretches of both Ryland Place and Tram Road nearby the appeal property are now restricted to parking for resident permit holders only from 8am to 8pm on all days. In short, there do not appear to be unrestricted on street parking/ unloading spaces in the immediate vicinity of the proposed development for most of the hours the shop would be open, nor is there any off street parking provision for the shop.
14. Given the scale of the shop, it would appear likely that most customers would be local residents who are likely to walk or cycle to the shop. However, as the appellant acknowledges some customers may drive to the shop and given the prominent location of the shop at the junction of two busy roads, it may also attract customers who are passing the site. In addition, the appellant notes that the shop would be serviced by delivery vans to supply its daily goods.
15. I share the Council's concern that without adequate provision of parking and unloading spaces, customers and those delivering to the store may park outside the store on Tram Road, or at the end of Ryland Place nearest the appeal site causing an obstruction and/or a risk to highway safety at the junction of Tram Road and Ryland Place and for those using the adjacent pedestrian crossing.
16. No substantive information has been submitted which satisfactorily addresses the proposed development's impacts on existing adjoining on-street residential parking or on highway safety nearby.
17. Having regard to these considerations, I find that there is a clear risk that the development may lead to obstructions on the highway near a road junction and an increased highway safety risk. Accordingly, the development is contrary to the provisions of the Framework and Policy T2 of the PPLP, which amongst other things, seek to ensure developments do not have an unacceptable impact on highway safety.

Living conditions

18. I note that neither the Folkestone Town Council nor any local resident has objected to the proposals on the grounds of its impact on residential amenity (although the Town Council objected to the proposal on highway grounds). The appeal site is located adjacent to a busy road junction, where there are higher levels of road traffic activity (with associated traffic noise) than might typically be found in other primarily residential areas.
19. The Tram Road follows the alignment of the former railway line and so there are no properties directly opposite the front of the appeal site. Furthermore, the residential flats on the opposite corner of the junction of The Tram Road and Ryland Place are set some distance back from the junction.

20. However, the ground floor of the appeal property has not been used as a shop for about 40 years. It is proposed the new shop would be open 16 hours a day (06:00-22:00), 7 days a week. Residential accommodation would be retained above the proposed shop. There is also residential accommodation immediately adjacent in the terrace of houses that front the Tram Road and behind the shop in the houses fronting Ryland Place and as acknowledged by the appellant, the surrounding area is predominately residential.
21. In my view, the increased activity generated by the shop, particularly associated with those visiting or delivering by vehicle early in the morning or late in the evening, potentially on every day of the week, would generate additional noise and disturbance for those living nearby beyond that currently experienced, which would be harmful to their living conditions.
22. I find the proposed development would harm the amenity of neighbouring residents and would therefore be contrary to Policies HB1 and RL8 of the PPLP and the Framework which seek, amongst other things to ensure that development does not harm the living conditions of nearby residents.

Other considerations

23. Although it appears from the evidence in Annex D of the Appellant's Statement that No.4 Ryland Place is currently unoccupied, there is no evidence before me to suggest that the ground floor of the appeal building is not capable of continued residential use. Nor is the appeal site under-utilised and consequently I find that the policy requirements in Paragraphs 117 and 118 of the Framework are of limited relevance or weight in this case.
24. The introduction of a retail use on the appeal site would improve the opportunity for local residents to access shops in more sustainable ways such as walking and cycling, with attendant health and well-being benefits. The provision of a small shop within a mainly residential area might also improve the opportunity for social interaction within the local community in a way consistent with the social objective of sustainable development outlined in the Framework. Although these considerations weigh in favour of the development, its small scale means its impact on the area would be small and accordingly it is of limited weight as a consideration and does not outweigh the harm I have identified.
25. My attention has been drawn to several examples of changes of use of existing buildings that have been given planning permission or allowed on appeal. There is very limited information available about those schemes, the main issues that arose and the consideration of issues that are similar to this appeal. In the absence of many details, I am unable to identify any substantive evidence that might suggest a precedent for the current form of development has been set and accordingly they are of limited weight in the determination of this appeal.

Conclusion

26. In conclusion, I find that the scheme would conflict with both the recently adopted PPLP and the Framework on all three main issues. Although there are factors in favour of the scheme, they are clearly outweighed by the harm I have identified. Accordingly, for the reasons I have set out above, and having regard to all other matters raised, I conclude the appeal should be dismissed.

Anthony Thompson

INSPECTOR