



Appeal Decision

Site visit made on 14 January 2021

by J Davis BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16/02/2021

Appeal Ref: APP/B5480/W/20/3256787

76 High Street, Hornchurch, RM12 4UW

- 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 Geoff Kenworth against the decision of the Council of the London Borough of Havering.
 - The application Ref P1454.19, dated 19 September 2019, was refused by notice dated 13 March 2020.
 - The development proposed is change of use to massage parlour.
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Decision

1. The appeal is allowed and planning permission is granted for the change of use to massage parlour at 76 High Street, Hornchurch, RM12 4UW in accordance with the terms of the application, Ref P1454.19, dated 19 September 2019, subject to the following 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: PL01, PL02, PL03, PL04, PL05 Rev.1.
 - 3) The premises shall not be used for the purposes hereby permitted other than between the hours of 10am – 8pm Monday to Saturday, and 10am – 5pm on Sundays, Public or Bank Holidays, without the prior consent in writing of the Local Planning Authority.

Procedural Matters

2. I have used the Council's description of development in the banner heading as it accurately reflects the proposed development.

Main Issue

3. The main issue is the effect of the proposal on the retail vitality of Hornchurch Major District Centre.

Reasons

4. The appeal proposal relates to the ground floor of a mid-terrace commercial unit located on Hornchurch High Street. The Council confirm that the site is within the core area of a designated Major District Centre. The planning history suggests that the previous authorised use of the site was for a retail unit and

therapy healing rooms. At my site visit I observed that the change of use to a massage parlour appears to have been implemented, albeit the business was closed presumably due to current covid restrictions.

5. Policy DC16 of the Core Strategy and Development Control Policies Development Plan Document (Adopted 2008) (CS) allows for service uses (A1, A2, A3, A4, A5) throughout the retail core at ground floor level in certain circumstances. These include where the use provides a service appropriate to a shopping area and where the proposal will not result in the grouping of 3 or more adjoining A2-A5 uses. Within the retail core of Hornchurch, proposals should not result in the proportion of non-retail uses within the relative frontage exceeding 20% of its total length. The Council consider that the proposed use of the site as a massage parlour would not comply with Policy DC16 as it is a sui generis use that does not fall within use classes A1-A5. However, whilst examples of services uses are given in the policy, these are not worded as an exhaustive list.
6. On 1 September 2020 the Town & Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. The Explanatory Memorandum to the new Regulations indicates that the changes are being made to better reflect the diversity of uses found on high streets and in town centres and to provide the flexibility for businesses to adapt and diversify to meet changing demands. The creation of the Class E use class introduces greater flexibility in terms of future uses on high streets and within town centres which is a matter which I afford significant weight. Furthermore, Paragraph 85 of the National Planning Policy Framework states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaption.
7. Policy DC16 of the CS pre-dates the Framework and changes to the Use Classes Order and accordingly I attach it only moderate weight although its aims to ensure the vitality and viability of town centres are generally consistent with the Framework.
8. The proposed use as a massage parlour would provide a service to the local community and would continue to attract visiting members of the public, complementing the existing retail and other uses in the town centre. Moreover, the proposal would maintain a shop front and window display and thereby would provide an active street frontage. The proposal is adjacent to retail uses on either side of it and would not result in the grouping of 3 or more non-retail uses. The appellant's state that according to their survey, the proposal would not result in the proportion of non-retail uses within the relative frontage exceeding 20% of its total length. Whilst I have not been provided with any substantive evidence to demonstrate that this is the case, from my site visit retail uses do appear to predominate. Furthermore, the Council has not provided any substantive evidence to the contrary.
9. I am therefore satisfied that the proposal would not be harmful to the retail vitality of Hornchurch Major District Centre and accordingly would not undermine the aims and objectives of Policy DC16 of the CS. It would also comply with the Framework insofar as it seeks to promote the long term vitality and viability of town centres.

Other Matter

10. With regard to third party comments concerning parking pressure, the proposed use would operate on the same basis as the previous use in terms of car parking. I have no substantive evidence before me to suggest that the proposal would put additional pressure on parking facilities within the area.

Conditions

11. I have imposed a condition requiring the development to be in accordance with the approved plans for clarity. I have also imposed a condition relating to hours of opening, as suggested by the Council, in the interests of the amenity of neighbouring users.

J Davis

INSPECTOR