

Appeal Decision

Site Visit made on 23 March 2021

by Mr S Rennie BSc (Hons), BA (Hons), MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2021

Appeal Ref: APP/Z5630/W/20/3260987

127-131 Ewell Road, SURBITON, London KT6 6AL

- 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 Ms Randall and Mr Tauber against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref 20/00696/FUL, dated 17 March 2020, was refused by notice dated 19 June 2020.
 - The development proposed is the change of use of 127-131 Ewell Road from mixed commercial units to provide 3 self-contained cottages (use class C3).
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are whether the proposed change of use would (1) result in the loss of retail and/or employment units which would impact the vitality of the area; and (2) impact upon highway safety as a result of the lack of parking provision.

Reasons

Loss of employment/retail space

3. The existing units were likely originally dwellings, although they have been shops or similar for some time and part of the retail function along Ewell Road. This section of Ewell Road has been designated as the Ewell Road North Local Centre.
4. As units these would have provided some employment as well as being a contributor to the shops and services in this 'Local Centre'. The appellant states that at least one of the units was used for a considerable time for storage (B8 use class), but there is no evidence of a change of use approved. From evidence provided, it appears that back circa 2009 that No.127 Ewell Road was occupied by a business that sold hygiene products, with No 129 occupied by 'Hannaford Forensic Services' (an engineer and design practice) and No 131 as an antiques shop. It is not clear whether there is a lawful use of any of the units as B8 (storage) but it is clear there was commercial uses until approximately 2009.
5. Policy DM17 of the adopted Core Strategy (2012) states that Local Centres will be protected, managed and enhanced "so they continue to provide accessible goods, services and employment". The policy also states that alternative uses (non-employment based) will not be accepted in Local Centres unless there is

sound evidence and rigorous marketing over a number of years to demonstrate that there is no need for a range of employment uses.

6. As set out in the National Planning Policy Framework (the Framework), planning decisions should support the role that town centres play for local communities. The Framework also seeks to promote the long-term vitality and viability of centres based on a hierarchy, by allowing them to grow and diversify in a way that can respond to rapid changes in retail. This can include a suitable mix of uses, including housing.
7. In this case, the housing as proposed would add to the mix within this section of Ewell Road. However, this would come from the loss of three whole retail/commercial units, which is a significant section of this Local Centre. The extent of this loss would materially erode the retail/commercial function of Ewell Road as a Local Centre. It seems unlikely that they would return to retail or commercial use again in the future. Furthermore, whilst at least two of the properties have remained shut with no apparent use for over 10 years or more, it is not clear from the evidence that this was due to a lack of commercial business interest in these units.
8. Having been in the units it is clear that they are in a poor state of repair, with extensive works necessary. However, it is not clear whether this would be extensive structural repairs or less significant works needed. There is note of structural movement, but not in any detail. However, such work would be necessary whether they were to be commercial or residential in the future.
9. In this regard, I note that there are adjacent older buildings still in retail/commercial use along Ewell Road, including in this terrace, and so this indicates it is possible for such a use to be retained at Nos 127-131. This indicates that even though they are not conventional retail units and have limited internal space they could still potentially accommodate small businesses in a viable arrangement, even with the lack of parking on Ewell Road. Having an active business use for the three properties would also help maintain the buildings in the long term.
10. In regard to the marketing, I acknowledge that there has been very little interest from agents to market the properties for retail or commercial use. However, the letter from Franklin Commercial discussed the 'current climate' and the issue with the condition of the properties. It is not clear whether the condition of the properties could be viably improved to help find tenants. Furthermore, one of the advantages to a long marketing period is that it can test whether there are prospective tenants over time, which could include through changing economic circumstances. It is recognised that 2020 was a difficult year for many businesses but it is not clear whether the situation will sufficiently improve over time. The email from Wallakers Commercial also makes a similar point about the difficulty of letting the units "at the present time". It has not been demonstrated to me that over the course of time, including when outside of the pandemic period, whether there would still be no interest from commercial retailers/businesses for these units.
11. The lack of marketing over a period of time means that there is a lack of evidenced justification for this proposed change of use. There may be a surplus of retail units throughout London (as explained in the 2021 London Plan), but there is a lack of evidence to demonstrate this is the case within this Local Centre currently. Furthermore, the 2021 London Plan, with policy SD6, SD7

and SD8 requires that the vitality and viability of London's varied town centres should be promoted, amongst other things, whereas the loss of three properties from commercial or retail use would reduce this vitality and range of uses, in my view. There is also policy E9, for example, which seeks a successful, competitive and diverse retail sector, which promotes sustainable access to goods and services for all Londoners. The policies of the London Plan as raised do not indicate to me that housing should be allowed in this circumstance, based on the evidence before me.

12. For these reasons, the proposal would unjustifiably erode the retail/commercial function of this Local Centre, therefore conflicting with policies DM17, DM19 and CS11 of the adopted Local Development Framework Core Strategy (2012). These policies seek to enhance the vitality and viability of Local Centres, support local shops and resist their loss (particularly convenience shops) in Local Centres, and promote the key sector of retail, amongst other things.

Parking Provision

13. The three units are within a Local Centre, where there is a predominance of commercial and retail businesses. From my observations, there are parking restrictions along this section of Ewell Road, which is also a busy highway.
14. The proposal is for a car-free development, with there being no off-street parking provision. Furthermore, the site has good public transport links with nearby bus stops and the train station close also. As such, the location of the site suits a car-free development.
15. The site is within the 'Oakhill Controlled Parking Zone T', where the Council states this parking zone is already heavily subscribed. However, I have no detailed evidence to this affect. Furthermore, if the units were to remain as commercial it would also likely draw people to the area, which could put pressure on parking provision locally, albeit these visitors would not have a parking permit. Cycle parking could also be required via condition for each unit.
16. Overall, there is no substantive evidence that having no off-street parking provision for these properties if converted to dwellings would result in highway safety issues due to the level of subscriptions to the current local permit scheme. In this location, which is particularly accessible, it could be that vehicle ownership is low, even without legal agreements to the development being car-free. As such, this proposal on this issue does not conflict with policies DM9 and DM10 of the adopted Local Development Framework Core Strategy (2012). These policies require that development does not result in congestion or highway safety being compromised, amongst other things.

Planning Balance

17. The Council has acknowledged that it cannot demonstrate a 5 year housing land supply. Paragraph 11 of the National Planning Policy Framework (the Framework) sets out that decisions should apply a presumption in favour of sustainable development and that, under criterion d) where the policies which are most important for determining the application are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Given the lack of a five year housing land supply, paragraph 11 d) of the Framework is engaged.

18. In terms of benefits, the proposal would provide dwellings towards the local housing supply in an accessible location. There would be economic benefits from the conversion works to create the dwellings. The change of use would also return all three units to active use and the likely improved maintenance of these buildings in a visually prominent location within the Conservation Area.
19. However, the harm to the local economy and the retail provision within this area as identified would be significant and as a result the economic role of sustainable development would not be achieved. When assessed against the policies in the Framework taken as a whole the adverse impacts would significantly and demonstrably outweigh the cumulative benefits. Therefore, the proposal would not be a sustainable form of development.
20. The proposal would therefore conflict with the development plan and there are no other considerations, including the Framework, that outweigh this conflict.

Conclusion

21. For the reasons given above, in relation to the loss of the employment/commercial uses at the site addresses, I conclude that the appeal should be dismissed.

Mr Steven Rennie

INSPECTOR