



Appeal Decision

Site visit made on 24 May 2021

by Mrs H Nicholls FdA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 24 June 2021

Appeal Ref: APP/N1160/W/21/3268043

70 & 72 Embankment Road, Plymouth PL4 9HY

- 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 D Fellows against the decision of Plymouth City Council.
 - The application Ref 20/00871/FUL, dated 2 June 2020, was refused by notice dated 20 November 2020.
 - The development proposed is change of use of ground floor retail units (commercial shop and hairdressing salon) to two residential flats and associated demolition and construction works to front facade.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. During the course of processing the appeal application, the plans were amended to show the retention of the shopfronts, despite the wording retained in the description of the development.

Main Issue

3. The main issue is the effect of the proposal on the function and viability of the local centre.

Reasons

4. The appeal site comprises two adjoining ground floor retail premises with shopfronts which are situated within the Embankment Road local centre. One appeared to be a, now disused, hairdressing salon; the other is currently in use as a greengrocers shop. The upper floors of the premises have been converted into six flats.
5. I noted from the appellant's evidence and from my own observations that there were approximately 30 retail units that make up the primary shopping area of the designated Embankment Road centre. Approximately 7 of these appeared to be vacant at the time of my visit and only a few premises at the western end were considered to fall within the 'Primary Frontage'. The appeal premises are broadly centrally located within the local centre and are of a similar scale to most others found in both directions along the street.
6. Policy DEV18 of the Plymouth and South West Devon Joint Local Plan (2019) (JLP) requires that development within centres should maintain the vitality and viability of the centre as a whole, preserving its primary retail role and should not cause unacceptable fragmentation. The Plymouth and South West Devon

Supplementary Planning Document (2020) (SPD) expands on this and states that there should be no adverse effect on the vitality and viability of shopping centres (4.148) and that the location of the proposal within the centre will also be taken into consideration, in terms of the number, distribution and proximity of different uses with in the part of a centre and the centre as a whole.

7. I have had regard to the period of time that the hairdressing premises has allegedly been disused, but am mindful that the recent effects of the COVID-19 Pandemic may have affected the viability of that specific business and prospects of securing alternative tenants in the period thereafter. In part due to the need to boost the economic prospects of retailing centres, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the UCO¹ to form the new 'Class E - Commercial, Business and Service' use. This new use class includes retail, indoor sport, recreation and fitness uses, allowing a greater flexibility for uses within traditional retail units. Whilst this legislation took effect in September 2020, I have not seen any evidence of any attempts to secure alternative uses under Class E, through details of marketing efforts or similar initiatives.
8. It is suggested that the greengrocers shop would be relocated to a currently vacant alternative premises which is also in the ownership of the appellant a short distance away, still fitted out as a launderette. Whilst the current tenant agrees to appear to such a relocation, as the case is partly premised on the number of vacant units demonstrating a lack of need, I have greater concern that this other unit is in the same ownership and that little evidence of attempts to secure new tenants has been offered to justify the permanent loss of two of these. Whilst there is no specific requirement in the Policy to demonstrate a lack of need, the role and viability of the centre depends on a broad range of well-located commercial premises and I am not persuaded on the evidence before me that the units would not be needed again in the near future for such purposes.
9. In terms of the location of the units, the centre is essentially a single sided high street with a mixture of ground floor retail units offering a range of goods and services. The broadly central position of the two units means that the proposal would make a proportion of the street inactive, polarising the retail uses to either ends of the street. Whilst there are already some vacant uses dotted along this section of the street, the permanent loss of a further two would be harmful to the function of the street and centre as a whole.
10. I appreciate that the current economic situation has created much uncertainty and that the proximity of the City Centre may influence the number and type of retailers or other commercial operators that are attracted to the premises and area in general. However, the newness of the more flexible Class E regime, the potential that economic recovery could change the prospects of re-letting the premises and a general desire not to fragment the street through the loss of such centrally-located units, means that it is too soon to assume that there is no alternative but to allow the permanent change of use to residential purposes contrary to the intentions of the development plan.
11. I am also aware of the proximity of the other commercial uses in Exeter Street and the City Centre more generally. Whilst their existence and the trend towards online shopping are factors of relevance, Policy DEV18 and the

¹ Town and Country Planning (Use Classes) Order 1987 (Use Classes Order)

designation in the JLP of Embankment Road as a local centre were relatively recently adopted with an awareness of these factors.

12. In view of this main issue, the proposal would harm the function and viability of the local centre, contrary to, in particular, Policy DEV18 of the JLP. For similar reasons, it would also fail to adhere to guidance in the SPD.

Other Matters

13. I note that the proposal would not harm the character and appearance of the area through retention of the shopfronts, and that there is agreement that the living conditions for future occupiers that would be provided by the units would be adequate. The absence of other harms does not add weight in favour of the proposal.
14. Whilst the existing units, along with other vacant units, have a run-down appearance, I do not consider this a reason in itself to seek an alternative residential use, as to do so could encourage purposeful decay.
15. The general compatibility of residential uses in a town centre location are not in dispute and I accept that the existing six flats on the upper floors of the premises have helped play a role in supporting the local centre businesses since they were first formed.

Planning balance and conclusion

16. The proposal would harm the viability and vitality of the local centre, through the permanent loss of the units and fragmentation of its shopping character. Thus, in this regard, the proposal conflicts with the development plan considered as a whole.
17. The proposal would deliver two residential units on a sustainably located windfall site as promoted by the JLP, and, more generally, through the National Planning Policy Framework. The boost to the housing supply and increased access to housing would be a social benefit of the scheme. The works to convert the buildings would result in minor and temporary construction phase economic benefits. Longer-term economic benefits would also accrue from new residents, albeit of a modest scale given the small number of units proposed.
18. However, based on the evidence before me, the scale of the benefits would not outweigh the identified harm. There are no other material considerations to indicate that a decision should be taken other than in accordance with the development plan.
19. Consequently, the appeal is dismissed.

Hollie Nicholls

INSPECTOR