
Appeal Decision

Site visit made on 19 May 2021

by R Bartlett PGDip URP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 8th July 2021

Appeal Ref: APP/H1515/W/20/3259042
30 Crown Street, Brentwood, CM14 4BA

- 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 J Lewin against the decision of Brentwood Borough Council.
 - The application Ref 20/00811/FUL, dated 16 June 2020, was refused by notice dated 7 August 2020.
 - The development proposed is part change of use of shop to residential along with elevational amendments.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the development on:
 - the vitality and viability of the designated shopping area with particular regard to the loss of retail floorspace; and
 - the character and appearance of the area having regard to the Brentwood Town Centre Conservation Area (CA).

Reasons

3. The appeal property is an end of terrace unit with a vehicular access to the side and a row of terraced cottages to the rear. It comprises a vacant ground floor retail unit, which I am advised previously formed part of the adjoining larger unit, currently used as a book shop. The first floor provides ancillary storage and office accommodation.
4. Although the ground floor retail space may previously have been linked to the adjacent unit via an internal ground floor doorway, the submitted plans show that the existing building is now entirely self-contained with its own entrance and staircase and no internal links to the adjacent unit on either floor. Externally it also reads as a separate building or extension set back from the adjoining unit, with a different roof form and materials and slightly different fenestration details.

Loss of retail floorspace

5. Crown Street is an attractive pedestrianised area, which is specifically allocated for small scale shops under Policy TC6 of the Brentwood Replacement Local Plan Adopted 25 August 2005 (the local plan). This policy seeks to retain small

- shops, which are more affordable for small independent retailers and are important in ensuring the overall attraction and viability of the shopping area.
6. The property sits within a row of premises that are predominantly occupied at ground floor level by a variety of small independent retail and commercial uses, some with outdoor seating. Upper floors appear to be occupied by a mixture of office, storage and residential uses.
 7. The appellant has provided a list of retail premises within Brentwood Town Centre area, which were vacant as of 19 August 2020. The floorspaces of these premises have not been provided for comparison to the appeal property and none of the units are within the Crown Street small shops allocation. The availability of these alternative premises does not therefore justify the loss of a small retail unit on Crown Street or demonstrate that similar small scale units are available at the same price in the same area. At the time of my site visit there did not appear to be any other vacant shop units on Crown Street and the only letting signs I observed appeared to relate to office space on upper floors.
 8. I have also had regard to the marketing report provided by Broadwalk Property Management, who occupy the first floor office premises within the appeal site. This comprises a letter, which advises that the appeal property, together with the formerly adjoining retail unit, was vacated by Audio T in May 2019 and was marketed for rent, at a price which was in line with comparable local premises and agent recommendations.
 9. No precise details have been provided of what, how or where the site was advertised, for how long or at what price. There is no evidence to suggest the property has ever been marketed for sale rather than rent.
 10. In September 2019 interest was expressed in part of the wider unit. The split was agreed and the adjoining unit is now let as a book shop. The agent suspects that had the unit not been split the larger unit would still have been vacant. To my mind this demonstrates the demand for smaller and more affordable premises in the area to meet the needs of small independent businesses.
 11. No evidence has been provided of the remaining smaller unit being marketed for sale or let as a standalone retail unit. The agent suggests extensive modification would be required to the frontage of the building to provide DDA compliant accessible doors, which could adversely affect the appearance of the Conservation Area. However, it is evident from the submitted plans that a former entrance still exists behind the obscure glazed shop window and that other shops entrances have been successfully created without detriment to the area.
 12. The appellant argues there would be no reduction to the number of retail units. The submitted plans clearly show two separate units, which have at times been linked and occupied by a single user. In sub-dividing the units, an additional unit was created, the lawful use and floorspace of which continues to be retail. I therefore give very limited weight to the appellant's point on this matter, particularly as the smaller units created accord with the local plan land use allocation for this area.

13. Based upon the evidence before me I am not persuaded that reuse of the ground floor of the appeal property for retail use would not be viable or possible or that adequate attempts have been made to market the remaining ground floor space for such use at a reasonable price or rate to attract potential buyers or tenants.
14. The loss of the retail function within the appeal unit due to the proposed change of use would reduce the number of shoppers visiting the area, which would in turn have a harmful effect on the vitality and viability of the town centre.
15. I therefore conclude that the proposal would be contrary to saved policy TC6 of the local plan, which allocates Crown Street for small scale shops and seeks to retain small shop units wherever possible.

Character and appearance

16. There is a statutory duty under section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas. Paragraph 193 of the Framework states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. I have not been provided with a copy of a CA Appraisal or a Heritage Statement setting out what the significance is of this part of the CA.
17. Crown Street is a modest scale Victorian thoroughfare comprising numerous two and three storey terraced buildings of some historic interest. I acknowledge that Crown Street, when originally constructed, was most likely a residential street and indeed there are some properties within the street, which have retained a residential appearance, including at ground floor level. However, the ground floor frontages onto this part of Crown Street are now predominantly occupied by a variety of small independent retail and commercial uses. The active frontages make a positive contribution to the character of this part of the CA.
18. The proposal to replace the modern full length shop windows with traditional sliding sash windows to match those above, would be in keeping with the architectural design of the building. However, I agree with the council that the narrow horizontal window proposed in the side elevation of the building would not reflect the design of the building or its surroundings. This matter could be addressed by a condition requiring amended window details to be submitted and agreed but doing so would not overcome the other concerns I have identified with the proposal.
19. Even though the alterations to the front elevation would respect the character of the building the loss of the shopping frontage would fundamentally alter the character of the area by changing the longstanding retail use of this ground floor unit to residential accommodation, detracting from the active retail frontage, which is now one of the principle characteristics of this allocated shopping area.

20. Consequently, I find that the proposed side window, the ground floor change of use and the removal of the retail frontage would not preserve or enhance the existing character and appearance of the area. However, based upon the limited evidence before me, there is nothing to suggest that the historic or architectural significance of the designated heritage asset, the CA, would be harmed. The proposal would not result in the loss of a historic shop front and there is nothing before me to suggest the retail use forms part of the historic significance of the building or the CA.
21. I therefore consider that the harm to the CA would be 'less than substantial'. Under such circumstances, Paragraph 196 of the Framework advises that this harm should be weighed against the public benefits of the proposal.
22. The public benefits would include the provision of a small dwelling in a sustainable and accessible location and bringing an empty or partially disused building back into beneficial use. The change of use would principally be of private benefit to the appellant. The public benefit of one small dwelling would be very limited and would not outweigh the loss of a small retail unit, which would be of far greater public benefit and has not been demonstrated to be unviable. As such, the proposal would not comply with Paragraph 196 of the Framework.
23. I therefore conclude that the proposal would be contrary to saved policies C14 and CP1 of the local plan, which resist changes of use that would involve changes to the appearance of the building that would be detrimental to the character or appearance of the area.

Other Matters

24. I recognise that the proposal could deliver a small home quickly and that residential development plays an important role in ensuring the vitality of centres and should be encouraged on appropriate sites. A small shop in an area specifically allocated for small shops in the development plan is not an appropriate site.
25. I also acknowledge that recent amendments to the use classes order would enable a unit to be used for a variety of non-retail uses. These alternative uses would however continue to attract customers to the area, which would maintain its vitality and commercial character. Moreover, the extended range of uses that the ground floor premises can now be used for is likely to make it more attractive to a wider range of business users. There is nothing before me to suggest the unit has been advertised for sale or to let on this basis.

Conclusion

26. For the reasons given above, I conclude that the appeal should be dismissed.

Rachael Bartlett

INSPECTOR