



Appeal Decision

Site visit made on 17 November 2022

by Rory MacLeod BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 December 2022

Appeal Ref: APP/C3620/W/22/3296272

43 South Street, Dorking, Surrey, RH4 2JX

- 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 Daniel Coe of Rosemar Properties Ltd against the decision of Mole Valley District Council.
 - The application Ref MO/2021/0273/PLA, dated 15 February 2021, was refused by notice dated 4 January 2022.
 - The development proposed is change of use and conversion of part of the building to provide 1 No. flat (Use Class C3) and change of use of part of ground floor to a mixed use retail/professional and financial services use (Use Class E(a) and E(c)) with associated amenity area, refuse and cycle storage.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are the effect of the proposal on the viability of the remaining commercial unit and on the character and vitality of the shopping centre.

Reasons

3. The appeal relates to a two storey mid terrace building in a shopping area. The building was previously in use as a wine bar, but this ceased in July 2019. It was vacant at the time of the planning application but when I visited the site it was occupied by "Cogs", a bicycle workshop and store.
4. The proposal is to convert the rear part of the ground floor and the upper floor into a two bedroom dwelling with a commercial use retained on the ground floor frontage. The appeal documents state that the floorspace of the commercial unit would be reduced from 109.66m² to 26.22m², a reduction of 83.44m² or 76.09%.
5. The appeal site is located within a secondary shopping frontage. The parade includes clinics and food and drink premises and what appears to be a residential unit at no.51 South Street. There are shop units on the opposite side of the road and to the north towards the town centre. Few are vacant indicating a reasonable vitality to this part of the centre.
6. The shop units in the area are of variable size, but I did not observe any as small as that envisaged in the appeal proposal. If the unit could not be let, it would result in an area of dead frontage close to the residential unit at no.51. This would detract from the vitality of the parade and this part of the town centre.

7. The appellant envisages that the smaller Class E unit of 26.22m² would be easier to let for rent than the present larger unit, as the Covid-19 pandemic has damaged confidence in the commercial rental market. However, there is no sound marketing information before me, such as the rent to be charged, to support the contentions of a lack of interest in the current larger unit or that the retained smaller unit would still be viable. Moreover, a bicycle store now occupies the whole of the ground floor confirming interest in the current unit.
8. Whilst I acknowledge the difficulties of letting in a depressed market during the Covid-19 pandemic, from the evidence before me there remain doubts that the retained small shop unit would be viable and if not let, then this would detract from the character and vitality of the area.
9. The appellant claims a precedent has been set by a recent permission at 34-36 South Street for the creation of a residential unit on the rear part of the ground floor. But the Council point out that the retained commercial unit here is much larger and remains viable. There are clear differences between the two sites.
10. The appellant points out that income from the dwelling would compensate for reduced rental income from the smaller commercial floorspace and this would help to support the viability of the property as a whole. Notwithstanding this, if the ground floor frontage unit remained vacant and unviable this would detract from the character and vitality of the immediately surrounding area.

Other considerations

11. The site is within the Dorking Conservation Area. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 provides a general duty for special attention to be paid to the desirability of preserving or enhancing the character and appearance of conservation areas. The proposal involves no alterations to the front elevation. It would preserve the special character of the conservation area. The requirements of the general duty would be satisfied.
12. The Council cannot currently demonstrate a five year housing land supply as required by the National Planning Policy Framework (the Framework). Its latest reported figure is only 2.9 years. As such, the presumption in favour of sustainable development set out at Paragraph 11 of the Framework is engaged. Whilst the site lies within the Dorking Conservation Area, as the proposal has not been refused on heritage grounds, location within a conservation area does not provide an exemption for application of the "*tilted balance*" set out at Paragraph 11(d) of the Framework. Permission therefore should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits of doing so, when assessed against the policies of the Framework as a whole.

Planning balance

13. The proposal would result in the benefit of an additional home in a sustainable location close to everyday services. This would make a minor contribution towards the Council's housing shortfall. Paragraph 86 to the Framework states, "*residential development often plays an important role in ensuring the vitality of centres*" and encourages residential development on appropriate sites. But in this instance the evidence suggests that the residential development would result in a retained commercial unit that may not be viable. This would detract from the character and vitality of this part of the shopping centre.

14. In my judgement, the adverse impacts of granting permission would significantly and demonstrably outweigh the benefit of one additional dwelling when assessed against the policies in the Framework taken as a whole.
15. The proposal would thereby be contrary to Policy CS6 of the Mole Valley Core Strategy (2009) which seeks to enhance the role of Dorking Town Centre through measures which increase its attraction for shopping, business, leisure, cultural and recreational activities.
16. Prolonged vacancy of the small commercial unit through unviability would also conflict with Policy DT3 of the Dorking Town Centre Action Area Plan; this establishes the secondary shopping frontage designation for the appeal site and seeks to ensure that proposals do not lead to an over-concentration of non-retail uses in the interest of vitality.

Other Matters

17. There have been two letters in support of the proposal, mainly on the grounds of noise and disturbance from the former wine bar use. However, these matters can be controlled through management measures. The representations do not lead me to a different conclusion.

Conclusion

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

Rory MacLeod

INSPECTOR