



Appeal Decision

Site visit made on 16 January 2024

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29th February 2024

Appeal Ref: APP/W2465/W/23/3326510

Ground floor - 342 Saint Saviours Road, Leicester LE5 4HJ

- 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 Faruk Patel of MTHF Properties Ltd against the decision of Leicester City Council.
 - The application Ref 20222194, dated 25 January 2023, was refused by notice dated 22 March 2023.
 - The development proposed is change of use part of ground floor 'B2' to use class 'E' and installation of shopfronts.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The revised National Planning Policy Framework (the Framework) has been published since the appeal was submitted. My decision is made in the context of the revised Framework. I am satisfied that no interested party has been prejudiced by my approach.
3. Following determination of the planning application the appellant has produced a Sequential Test (ST). I have paid regard to the document in consideration of the appeal, and I note that the Council have commented on its contents. Having regard to the Holborn Studios judgement¹ I am satisfied that no interested parties have been prejudiced by my approach.

Main Issues

4. The main issues are:
 - The effect of the proposed development upon the vitality and viability of the Saint Saviours Road West local centre;
 - The effect of the proposal upon the provision of employment land; and
 - The effect of the proposed development upon the character and appearance of the host property and area.

¹ Holborn Studios Ltd v The Council of the London Borough of Hackney [2017] EWHC 2823 (Admin)

Reasons

Vitality and viability

5. The appeal site comprises a building occupied by a clothing manufacturer located within a Primarily Employment Area. The building sits within a context of garment manufacturing businesses and traditional terraced housing and sits outside of the Saint Saviours Road West local centre, located approximately 200m to the west. Whilst retail uses are pepper potted along Saint Saviours Road outside of the local centre, including a mini market and barber shop, these appear to be in situ for some time.
6. The Framework aims to support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Paragraph 91 of the Framework sets out that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
7. The proposal would result in the formation of three retail units fronting Saint Saviours Road outside of the designated local centre. Based on the information before me one unit would be associated with the established clothing manufacturer and the other two units would be independent retail outlets. As such, the provision of retail units in this location would likely draw footfall and trade away from the Saint Saviours Road West local centre undermining its vitality and viability.
8. I have paid regard to the appellant's ST which assesses alternative sites for the development proposed. The appellant argues that sites within local centres have not been assessed as the development proposed is for a manufacturing and retail use which would not be appropriate in such locations. He cites a number of reasons including the logistics of viewing goods and collecting items and Business Rates.
9. The ST provides an assessment for predominantly retail premises on edge of centre locations. However, there is no information regarding the site selection process and whether this was made through a physical search of locations or via online searches. There is nothing substantive before me to indicate that local estate agents were consulted who would hold details of potentially suitable local sites or the Council's planning register. Nor did the appellant engage with the Council in carrying out the assessment.
10. I acknowledge that the search adopted a flexible approach and includes premises not in retail use. However, by limiting the search to premises outside of town centre locations only and by adopting a rigid approach that does not disaggregate the manufacturing use from the retail units I am not satisfied that it has been demonstrated that a comprehensive and thorough assessment of alternative sites has been carried out.
11. Drawing the above together, it has not been demonstrated that there are no suitable, alternative and viable sites in accordance with the sequential approach to the location of main town centre uses.

12. Accordingly, the proposal conflicts with the Framework and Policy CS11 of the Leicester City Core Strategy (2014) (CS) and would undermine the vitality and viability of the Saint Saviours Road West local centre.

Provision of employment land

13. Policy E03 of the City of Leicester Local Plan (2006) (LP) states that in Primarily Employment Areas planning permission will be granted for development of B1, B2 and B8 uses as appropriate, and not for changes to other land uses unless certain criteria can be satisfied.
14. Taking into consideration that two of the retail units would be independent they could not be considered ancillary to the existing manufacturing use. Moreover, it has not been demonstrated that the ground floor area in question is no longer viable for alternative employment purposes, as no marketing exercise has been undertaken.
15. Whilst the appellant contends that the ground floor area, subject of the appeal, could not be turned over to a separate office use due to incompatibility with the manufacturing operations taking place this could equally apply to the proposed retail units. Thus, I give this negligible weight in coming to my decision.
16. Whilst the proposal may well result in more employment opportunities it has not been demonstrated that it would lead to a significant number of jobs. In any event similar employment benefits could be delivered in more sequentially preferable town centre locations.
17. As such, the proposed development would result in the unjustified loss of employment floorspace contrary to CS Policy CS10 and LP Policy E03 which, amongst other things, seek to retain employment land in the city.

Character and appearance

18. The appeal property is a traditional two storey building positioned on the corner of Saint Saviours Road and Benson Street. Whilst the building has been altered the form and rhythm of the ground floor openings, including the arched design and lintels, have a pleasant appearance and positively contribute to the traditional character and appearance of the street.
19. The proposed shopfronts would result in the loss of these openings and architectural details. The shopfronts would unbalance the Saint Saviours Road elevation and appear as unsympathetic modern interventions on account of their proportions and appearance. This would adversely affect the appearance of the property and the street scene.
20. Whilst the appellant has indicated that they would be willing to review the design of the shopfronts it is incumbent upon me to assess the merits of the scheme before me. As such, I have not taken this into account in coming to my decision.
21. I conclude that the proposed development would adversely affect the character and appearance of the host property and area contrary to CS Policy CS03 which, amongst other things, seeks high quality developments that contribute positively to the character and appearance of the local built environment.
22. It would also be contrary to paragraphs 135 and 139 of the Framework which, amongst other things, seek to secure developments that will function well and

add to the overall quality of the area; are visually attractive as a result of good architecture and which do not support development that is not well designed.

Other Matters

23. My attention has been drawn to a neighbouring retail use outside of the local centre. However, I have not been made aware of the individual circumstances that led to it being considered acceptable by the Council. In any case, every appeal must be considered on its own merits, as I have done and does not lead me to reach a different conclusion on the main issues.
24. The appellant contends that the proposed development would make an efficient use of space and reduce overheads. However, these factors neither individually nor cumulatively would outweigh the harm that I have identified.
25. I acknowledge that the proposed development may well reduce trips to the appellant's warehouse in Manchester. However, this would be somewhat of a personal benefit rather than something that was in the public interest. It is probable that the proposed development would remain long after the current circumstances of the appellant cease to be material. For these reasons, I find that this factor is not sufficient to outweigh the harm identified.

Conclusion

26. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR