



Appeal Decision

Site visit made on 3 July 2024

by C Rafferty LLB (Hons), Solicitor

an Inspector appointed by the Secretary of State

Decision date: 05 July 2024

Appeal Ref: APP/T5150/W/23/3336077

147 Cricklewood Broadway, Brent, London NW2 3HY

- 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 Angsana Witthayawatthanarat against the decision of the Council of the London Borough of Brent.
 - The application Ref 23/2417, dated 11 July 2023, was refused by notice dated 16 November 2023.
 - The development proposed is the change of use from public house (sui generis) to restaurant with drinking provision (Use Class E).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework). Apart from paragraph numbering those parts of the Framework most relevant to this appeal have not been amended. As a result, it has not been necessary to seek comments on the revised Framework. No party's interests have been prejudiced by this approach.

Main Issue

3. The main issue is whether the proposed change of use would be acceptable, having regard to local plan policy.

Reasons

4. The appeal site comprises a building at No. 147 Cricklewood Broadway. Although currently laid out as a restaurant at basement, ground and first floor, it appears that the lawful use for these premises is as a public house. The proposal seeks to convert the unit to a restaurant with drinking provision.
5. Policy BHC5 of the Brent Local Plan 2019 – 2041 (the BLP) states that the Council will support the loss of public houses only under certain criteria. This includes: BHC5(b) that it will not detrimentally affect the character and vitality of the area and retain as much of its external fabric and appearance as possible; BHC5(c) that it does not constitute the loss of a service of value to the community; and BHC5(d) , if an asset of community value, has been offered for sale to local community groups. The Council has not refused the proposal on the basis of any of these tests and, on the evidence before me, I have no reason to disagree.

6. However, even noting the Council's comments regarding the fact that the public house did not have the distinctive character typical of more desirable pubs, it remains that Policy BHC5(a) also contains a separate requirement for adequate demonstration that the property's continued use as a pub is not economically viable, as demonstrated by meeting marketing requirements set out in supporting text.
7. The appellant has stated that the premises was marketed with a local agency. However, even noting reference to a 24-month period of vacancy, there is nothing substantive before me to clarify whether, as part of this marketing exercise, the public house was marketed locally and regionally for a 24 month period, as a public house and for an alternative community facility, or at a price agreed with the Council following independent professional valuation. As such, there is little evidence to suggest that this marketing requirement in the supporting text to Policy BHC5 has been met.
8. Accounts have been provided by the appellant for 2017-2019 to demonstrate that the public house use was not viable, and reference is made to a withdrawn planning application for the change of use of the premises to a restaurant. Nevertheless, there is nothing before me demonstrating specific efforts made to preserve the facility, including diversification options, or outlining the requirements of a viability test such as the CAMRA Public House Viability test and whether this has been met by the proposal. Accordingly, I cannot be certain that the proposal complies with the marketing requirements in such regards, as per the supporting text to Policy BHC5
9. The marketing requirements also reference an assessment of alternative licensed premises within easy walking distance of the public house. The appellant has highlighted numerous public houses in the area, and I observed the immediate surrounds during my visit. However, no detailed analysis has been undertaken on these premises or their facilities and community environment in comparison to the appeal property.
10. The appellant states that two supporting comments were received in respect of the withdrawn planning application, and points to a lack of objections received to both that application and the current proposal. They further allege a lack of interest from local residents in starting a campaign to save the pub. I have no further, substantive evidence of a specific consultation to ascertain the value of the public house to the community. However, I note that the Council did not refuse the proposal on the basis of this point at Policy BHC5(c). Nevertheless, it remains that the other marketing requirements outlined above have not been met.
11. I note the appellant's reference to Policy HC7 of the London Plan 2021, which in protecting public houses refers to those with heritage, cultural, economic, or social value, which it is alleged the appeal property does not have. In addition, BE4 of the BLP seeks to ensure no further drinking establishments on Primary Shopping Frontages except in certain circumstances. However, these policies do not outweigh the provisions of Policy BHC5 as it relates specifically to existing public houses in Brent. I further find that the provisions of Policy BHC5 of the BLP are in accordance with the overall intention of Policy HC7 of the London Plan 2021 to resist development that would comprise the operation or viability of a public house use.

12. For the reasons given above I find that the development would not comply with Policy BHC5 of the BLP. As such, the proposed change of use would not be acceptable having regard to local plan policy.

Other Matters

13. As a result of the proposed change of use the appeal property would provide space for evening classes, clubs, meetings or performances, which provide for social interaction. It would also provide employment of 10 full time and 5 part time equivalent employees. These aspects are highlighted in the supporting text to Policy BHC5 as making a valuable contribution to the community. Nevertheless, these benefits would not outweigh the harm arising from the identified policy conflict above.
14. While the Council raises further concerns regarding the presence of a bus stop 'immediately in front of the site' which could be obstructed by customer and delivery vehicles, I noted this to be in front of the neighbouring premises, rather than the appeal property. In any event, this did not form part of the reasons for refusal.

Conclusion

15. For the reasons given, the proposal would not accord with the development plan when taken as a whole. There are no material considerations that indicate the appeal should be determined other than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

C Rafferty

INSPECTOR