



Appeal Decision

Site visit made on 17 September 2024

by R Cahalane BA(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 October 2024

Appeal Ref: APP/R3650/W/24/3338979

11 High Street, Bramley, Guildford GU5 0HF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Behrouz Abbassi-Ghadi against the decision of Waverley Borough Council.
 - The application Ref is WA/2023/02453.
 - The development proposed was described as: "Change of Use of ground Floor rear retail unit (Use Class E) to provide 1 residential flat Use (Class C) with alterations to elevations."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the decision notice differs to that contained within the application form and as provided in the banner heading above, as it refers to a change of use from an office rather than a retail unit. I sought comments from the parties regarding this and the appellant states that the planning application was for what was described in the application form, whereas the Local Planning Authority (LPA) considers the amended description in the decision notice to be correct.
3. I note that Use Class E (Commercial, Business and Service) of the Town and Country Planning (Use Classes) Order 1987 (As Amended) allows for both retail and office uses, and I have no evidence before me to suggest that either use of the existing appeal premises is currently restricted (e.g. by planning condition). I have therefore determined the appeal on the basis that both the existing ground floor commercial unit, and the smaller commercial unit to be retained by the proposal, could be used for both retail and office uses.
4. The appeal submission includes an additional "courtyard plan" covering the rear section of the appeal proposal. This removes the proposed fencing along the rear side boundary line and also provides amended locations for the proposed bicycle store and electric vehicle charge point. Such matters can often be controlled by means of planning conditions. As such, I do not regard these amendments as involving a substantial difference or fundamental change to the application. Nor do I consider that accepting these amendments would lead to procedural unfairness to interested parties. I have therefore determined the appeal on the basis of these amendments.
5. The relevant development plan policies are Policies ST1 and TCS2 of the Waverley Borough Local Plan Part 1: Strategic Policies and Sites (LPP1) 2018,

Policies DM1, DM4, DM5 and DM9 of the Waverley LP Part 2 (LPP2) 2023 and Policy BNP-L1 of the Bramley Neighbourhood Plan (NP) 2017-2032.

Main Issues

6. The main issues are:

- the effect of the proposed change of use on the vitality and viability of the retail function of Bramley Local Centre;
- whether acceptable living conditions would be provided for future occupiers of the proposed flat with regard to private amenity space; and
- whether appropriate car and delivery parking provision would be provided for the proposed change of use.

Reasons

Vitality and viability of Bramley Local Centre

7. No. 11 High Street comprises a ground floor commercial premises located within Bramley Local Centre, which forms a development plan designation. Policy BNP-L1 of the NP seeks to enhance the retail offer in the High Street and to resist proposals that involve the loss of uses that fall within Use Class E unless the alternative ground floor use is a use that is appropriate to the local centre. This policy is consistent with Policy TCS2 of the LPP1.
8. The appeal proposal forms a resubmission of a previously refused application (LPA Ref. WA/2023/01786) involving the loss of a retail unit. The appellant has provided a comparison floorplan with the current appeal proposal, which shows that the proposed commercial unit to be retained has not been amended from the previous refusal. The appeal submission however cites other existing commercial units along Bramley High Street as being of comparable size.
9. The High Street includes units of varying size and frontage and whilst the number of vacancies along the High Street reveal some degree of stress, several units have a similar floor area as the unit included in the appeal scheme. Bramley is therefore served by a mixture of small and larger commercial premises catering for everyday shopping and service requirements for the community.
10. Adopted policy is not prescriptive on advising on an appropriate size for retail units. The number of those currently occupied demonstrate that floor area and frontage are not determinative of whether a unit can be successfully occupied.
11. Therefore, in my judgement the retail unit retained by this appeal scheme could still contribute to the vitality and viability of the retail function of the Bramley Local Centre, and would therefore comply with Policy TCS2 of the LPP1 and Policy BNP-L1 of the NP.

Living conditions

12. The existing open yard to the rear of No. 11 High Street is of irregular shape and is enclosed to the rear by a closeboard fence and gate. The amended scheme subject of this appeal removes the proposed closeboard fence along the side boundary and instead, the open space to the rear of No 11 would be

landscaped as a communal and semi-private open amenity space. The appellant is willing to secure the final details of the landscaping by means of planning conditions.

13. The proposed layout now also provides the cycle storage under the rear external staircase to the first floor flats of No. 11a and No. 10a. This arrangement could provide further privacy for the occupiers of these flats, without significantly altering the existing external layout. The proposed bin storage would utilise the existing storage area alongside the rear fence, within the allocated parking space for the flat of 11a, and within the appellant's ownership. This replaces the previously proposed storage within the rear amenity area of No. 11, and would in my judgement be adequate to serve the appeal proposal.
14. The above amendments would increase the amount of amenity space that would be available for the proposed flat. The proposed amenity space would be extremely limited in size and would also function as the primary access to the flats above. Furthermore, it would be overlooked and in shade for much of the day, due to the site orientation and the positioning of the existing surrounding buildings.
15. The appellant has offered to unilaterally undertake an enhancement of the appeal site, to provide open communal and semi-private space for the current and future residents. This suggests allowing future occupiers of the appeal proposal to use the adjacent amenity space of No. 10. This would however require a legal agreement to secure this, which is not before me. In any event, this space is still overlooked by surrounding windows. The provision of flower pots as suggested by the courtyard plan would not provide sufficient privacy, and I also do not consider that adequate privacy can be feasibly provided in this location by means of landscaping condition.
16. The appellant argues that the appeal site is nonetheless near to the public realm of Bramley Church Hall and Bramley Library. However, the space around these buildings did not appear to be capable of facilitating such a use, with the library green space close to the busy A281 (High Street), limiting its amenity value in any event. It is also put to me that the proposal is within a short walking distance to Bramley Park which is a dedicated area of public open space. However, this route would be along relatively narrow footways and would require crossing the busy A281. I therefore do not consider that this would be a feasible or attractive option for all future users of the flat.
17. The second reason for refusal on the decision notice also cites conflict with Policy DM1 and DM4 of the LPP2 in this regard. However, Policy DM1 relates to environmental implications of development such as pollution, light, noise, dust, vibration, and odour, or an increase in flood risk. I have not been provided with any evidence that the appeal proposal would cause such harm to current or future occupiers. Policy DM4 is a design policy and I have found that the amended layout would provide adequate bin storage and secure bike storage to comply with this policy. The proposed alterations to facilitate the change of use would be limited such that I have not identified any conflict with the other requirements of Policy DM4.
18. I conclude on this main issue that future occupiers of the proposed flat would be provided with inadequate living conditions in terms of private amenity space. In this regard, the proposed development is contrary to Policy TD1 of

the LPP1 and Policy DM5 of the Waverley LP Part 2 (LPP2) (2023). Together, these policies require the provision of private and usable amenity space for new housing developments.

Car parking provision

19. The parking spaces allocated for the appeal site are large enough for two vehicles to park in at the same time. Whilst the tandem layout could still likely lead to conflict between users of the commercial unit and users of the proposed flat, there are several 24-hour free Council car parking spaces along the back and side of Nos 9 to 12 High Street which could be used instead.
20. The Bramley Village Society has raised concern regarding deliveries necessitated via the front entrance, leading to more periodic obstruction to the High Street. I find that there would be sufficient space within the nearby Council parking spaces for small-scale deliveries to the appeal site, especially given the size of the retained commercial unit. I am also cognisant that the limited delivery options equally applies to the other existing commercial units, and that the Local Highway Authority has raised no objection in terms of highway safety and/or capacity.
21. In this regard, the proposal complies with Policy ST1 of the LPP1 and Policy DM9 of the LPP2 which together require, amongst other things, development to provide safe and convenient access for all highway users, and to make appropriate provision for car parking, having regard to the type of development and its location. The availability of parking and delivery options nearby would also minimise the scope for conflicts between pedestrians, cyclists and vehicles, as supported by paragraph 116c of the National Planning Policy Framework (the Framework).
22. Had I been minded to allow the appeal, full cycle storage and electric vehicle charge details could have been secured by suitably worded planning conditions.

Other Matters

23. The appellant has cited a number of planning permissions and prior approvals granted nearby within the High Street Local Centre, including some where no amenity spaces are provided, and approved floor plans have been provided for No. 9a (LPA Ref: WA/2017/2169) and Nos. 7A & B (LPA Ref: WA/2016/2065). I have not been provided with the full details and policy context of these decisions. I have assessed the current appeal on its own planning merits having regard to the current relevant policies, the submitted evidence and the site-specific circumstances.
24. The appellant has also suggested that due to the current vacancy of the appeal site, there is a Class MA fallback under the Town and Country Planning (General Permitted Development Order 2015 (As Amended)), which allows a change of use of a building and any land within its curtilage from Class E use to Class C3 dwellinghouse use. However, whilst this procedure is not as comprehensive as a full planning application assessment, it would nonetheless be subject to other material planning considerations that cannot be determined under this appeal. The potential for such a fallback has therefore not been demonstrated and can therefore not be afforded any weight.

25. The appellant has highlighted the lack of objections from surrounding neighbours, leaseholders and owners/tenants, and states that the owners of the adjacent commercial units were satisfied with optimising the size of the shop as this would help to bring interest to the shopping parade. This does not however render the proposal compliant with planning policy, and is not sufficient justification to allow the appeal.

Planning balance

26. The appeal proposal would provide an additional residential unit which would be an efficient use of land and an economic and social benefit as supported by the Framework. The smaller retained commercial unit may also be more attractive for new businesses.
27. I have however found that the appeal scheme conflicts with Policy TD1 of the LPP1 and Policy DM5 of the LPP2 given the quality of amenity space proposed. There would also be conflict with the Framework, which seeks to create places that promote health and well-being, with a high standard of amenity for future users. The appeal proposal is therefore not a form of sustainable development as identified by the Framework. The lack of harm to the Conservation Area is a neutral factor that neither weighs in favour nor against the proposal.

Conclusion

28. The proposal would conflict with the development plan as a whole and the material considerations before me, including the Framework, do not indicate that a decision should be made otherwise than in accordance with it. Therefore, the appeal is dismissed.

R Cahalane

INSPECTOR