



Appeal Decision

Site visit made on 10 June 2025

by A James BSc (Hons) MA MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 JUNE 2025

Appeal Ref: APP/U1430/W/24/3352882

72a High Street, Battle, East Sussex TN33 0AG

- 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 M Law of M & P Residential Enterprises LLP against the decision of Rother District Council.
 - The application reference is RR/2024/400/P.
 - The development proposed is change of use from office to residential, proposing a new three-bed maisonette.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. As the appeal site lies within a conservation area and relates to a listed building, I have had special regard to sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.
3. Since the Council issued its decision notice, the National Planning Policy Framework (the Framework) has been revised, with the latest version published on 12 December 2024 and updated on 7 February 2025. Those parts of the Framework most relevant to this appeal have not fundamentally changed. As a result, I have not sought further comments and I am satisfied that no party has been prejudiced by my approach.

Main Issue

4. The main issue is whether the proposal would result in the unjustified loss of a site for employment or community use.

Reasons

5. The appeal property is a three storey building, which is located on the High Street in Battle. This appeal relates to the first and second floors, which were last in use as office accommodation, but have been vacant since 2022. There is a retail unit on the ground floor. A similar scheme was dismissed at appeal in August 2023¹. In the previous appeal, the Inspector found that the proposal would result in the unjustified loss of a premises for employment or community use.
6. Policy DEC3(i) of the Council's Development and Site Allocations Local Plan December 2019 (the Local Plan) seeks to make effective use of employment sites

¹ Appeal ref: APP/U1430/W/23/3315082

by retaining premises currently (or last) in employment use, unless it is demonstrated that there is no reasonable prospect of its continued use for employment purposes or it would cause serious harm to local amenities. Where a mixed scheme is not viable, it prioritises alternative community uses. Policy DCO1 of the Local Plan requires that proposals that would result in the loss of a site of economic value (including employment uses) must demonstrate that there is no reasonable prospect of a continued use, based upon a comprehensive and sustained marketing campaign, which is normally for at least 18 months. Policy BA1 of the Rother Local Plan Core Strategy September 2014 (the Core Strategy) seeks to maintain Battle's vibrant and distinctive town centre.

7. Prior to the submission of the planning application, which is the subject of this appeal, the appellant had not marketed the appeal property. The appellant commenced marketing the appeal property after the planning application was determined. The appellant confirms that there have been no serious expressions of interest within a nine month period. However, there is limited information before me on any enquiries or viewings or the reasons why any prospective tenants may not have been interested.
8. Nevertheless, the appeal property has not been subject to a comprehensive and sustained marketing campaign for the required time period. Based on the evidence before me, it does not appear that the appeal property has been marketed for sale or for alternative commercial or community uses which may appeal to a wider market. There is also limited information on the nature of the marketing campaign. I noted on my site visit that no estate agent's marketing boards were present on the appeal property. Furthermore, there is no substantive evidence before me that the rental price is competitive in the current market. Consequently, I cannot be satisfied that the appellant has made appropriate endeavours to market the appeal property for office, commercial or community use, in line with Policy DCO1 of the Local Plan. I do not find that the appeal property is exempt from complying with Policies DEC3 and DCO1 because of its relatively modest floor area or the fact that it was in residential use until 2011.
9. The appellant argues that the loss of 179 square metres of employment floor space is insignificant when compared to the Council's objective of providing 10,000 square metres of employment floor space within Battle town centre, as set out in Policy BA1 of the Core Strategy. While I appreciate that there was a downturn in demand for office accommodation, particularly as a result of the pandemic, workers are now being encouraged to return to the office. In the absence of a sustained and comprehensive marketing campaign, I am not convinced that there is no demand for the appeal property for office or an alternative commercial or community use.
10. The site lies within the heart of the town centre and is easily accessible by public transport. There are public car parks and disabled car parking spaces within close proximity of the site. There is no compelling evidence before me that significant works would be required to recommence the office use. While the access (via a passage way and metal staircase) may not appeal to everyone and may not be DDA compliant, there is no substantive evidence before me that disabled access is a regulatory requirement for this listed building. It was clear from my site visit that a variety of uses (including office) were operating above the ground floor units in nearby, historic buildings.

11. While I found that the floor levels were slightly uneven, I do not find that this would preclude an office use from recommencing in the building or an alternative economic or community use.
12. Given the site's location on the High Street, future occupants may be subjected to traffic noise, particularly when the windows are open. Nevertheless, this matter has not precluded other businesses in the locality from operating in similar distances to the road. There is no compelling evidence before me that options such as secondary glazing or air conditioning have been explored, which could help to mitigate this issue.
13. While I appreciate that the premises have stood empty since 2022, this may not have been the case if the premises had been subject to a comprehensive and sustained marketing campaign from this time. Overall, I find that there is insufficient information before me to demonstrate that there is no demand for office, commercial or a community use in the building. Neither is there compelling evidence that such a use(s) would be unviable. Accordingly, the proposal would result in the unjustified loss of premises for employment or community use. The proposal is therefore contrary to the development plan policies specified above, which seek to retain such uses within Battle town centre, in order to maintain Battle's vibrant and distinctive town centre.

Other Matters

14. The appeal property is a Grade II listed building, which dates back to the early-19th century. Based on my site visit and the evidence before me, I find that the listed building's special interest insofar as is relevant to this appeal is derived from its historic and architectural interest as an illustration of Georgian architecture. The building's surviving historic fabric, use of traditional materials and its pleasing architectural style all make important contributions in these regards. The appeal property also lies within the Battle Conservation area (CA). The CA includes the historic core of the town. The significance of the CA insofar as is relevant to this appeal derives from the concentration of high quality historic buildings, in particular those along the High Street.
15. The proposal does not include any internal or external works. As a result, I find that the proposal would preserve the special interest of the listed building and the character and appearance of the CA. The proposal would also preserve the local distinctive character of the town. However, these are neutral factors that do not weigh in favour of the proposal.
16. The appellant refers to an approved application at 38 Mount Street, Battle for the change of use of part of the building from office to residential². The Council advises that this application was accompanied by a marketing campaign and is therefore materially different. As a result, I give it limited weight in my decision.
17. While I note that other employment premises are available to rent in the local area, it is unclear from the information before me how these other premises compare to the appeal property in terms of the quality of accommodation on offer and price. Consequently, I give them limited weight in my decision.

² Application ref: RR/2023/1236/P

18. While no objections are raised to the proposal on heritage grounds, the appeal relates to a listed building, which lies within the High Weald National Landscape. Consequently, permitted development rights under Class MA of the General Permitted Development Order 2015 as amended do not apply. As a result, there is no fall back position in this regard.
19. I acknowledge the support for the proposal by the Town Council and that no local objections have been received. However, this does not alter my findings set out above.

Planning Balance

20. The Council is unable to demonstrate a 5 year supply of deliverable housing sites. In such circumstances, paragraph 11 d) of the Framework advises that planning permission should be granted, unless the application of policies in the Framework that protect areas or assets of particular importance provide a strong reason for refusing the development, or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits. In this case, the proposal would not result in any harm to areas or assets of particular importance. It is therefore necessary to ascertain whether any adverse impacts would significantly and demonstrably outweigh the benefits.
21. The proposal would provide one new dwelling within an accessible location and would make effective use of the land. The proposal would make a small contribution to the Council's housing land supply, which I give limited weight in my decision. However, the proposal would result in the loss of employment floorspace, which would conflict with an objective of the Framework which seeks to support economic growth. Accordingly, I give the loss of the employment floorspace significant weight in my decision.
22. Future occupants would help to support local businesses and services, which I give limited weight as an economic benefit. Any Council tax paid by future occupants is not a material planning consideration.
23. In this case, the adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. As a result, the presumption in favour of sustainable development does not apply.

Conclusion

24. For the reasons given above, the proposal would conflict with the development plan as a whole and there are no other material considerations, including the Framework, that would outweigh that conflict. Therefore, I conclude that the appeal should be dismissed.

A James

INSPECTOR