
Appeal Decision

Site visit made on 30 July 2018

by Rachel Walmsley BSc MSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 November 2018

Appeal Ref: APP/P5870/W/17/3190048

15 The Market, Wrythe Lane, Carshalton SM5 1AG

- 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 Zaki Ahmad against the decision of the Council of the London Borough of Sutton.
 - The application Ref C2017/77036/FUL, dated 1 May 2017, was refused by notice dated 12 October 2017.
 - The development proposed is change of use from retail (Class A1) to a community centre (Class D1) incorporating educational and religious/cultural use.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use from retail (Class A1) to a community centre (Class D1) incorporating educational and religious/cultural use at 15 The Market, Wrythe Lane, Carshalton SM5 1AG in accordance with the terms of the application, Ref C2017/77036/FUL, dated 1 May 2017 and the plans submitted with it, subject to the conditions set out in the attached schedule.

Procedural matter

2. A revised version of the National Planning Policy Framework (the Framework)¹ has been published since the appeal was lodged. Both main parties were given the opportunity to comment on any relevant implications for the appeal. I have had regard to the Framework and any comments received in reaching my decision.

Main Issue

3. This is the effect of the proposed change of use on the vitality and viability of Rosehill District Centre.

Reasons

4. The appeal site is within the Primary Shopping Frontage of Rosehill District Centre which supports a variety of services and facilities including retail and non-retail uses. It was apparent from my site visit that the shopping area is a buoyant district centre which, at the time of my site visit had few vacant units. The unit which is the subject of this appeal is vacant and is reported by the main parties as having been vacant for more than seven months.

¹ National Planning Policy Framework, Ministry of Housing, Communities and Local Government (July 2018)

5. Within the Primary Shopping Frontages of District Centres, Policy 18 of the Local Plan² seeks to ensure that the proportion of A1 (retail) ground floor units does not fall below 55% and there should not be more than three adjoining non-A1 uses within the Primary Shopping Frontage.
6. The Council's evidence confirms that there are currently 49% of A1 uses within the Primary Shopping Frontage; the proposed change of use would increase this further. The threshold of 55% has, therefore, already been exceeded. Either side of the appeal site are two retail units. The change of use would not result in more than three adjoining non-A1 uses.
7. The community use proposed would maintain a footfall of pedestrians attending the premises throughout the week and at various times of the day. The development would also make use of a unit that is currently vacant and has been for some time. Whilst, therefore, the change of use would maintain retail levels below the recommended threshold, I find that it would contribute positively to the vitality and viability of the district centre.
8. Policy 17 of the Local Plan permits other town centre uses in district centres provided the use is suitable to the function of the centre and to other policies in the Local Plan. There is reference in policy 18 to community uses comprise an 'other town centre use' and therefore I do not concur with the Council that a community use is not a suitable use for the appeal site.
9. The community use would serve local people and whilst not every citizen may choose to use the facility, it would serve those wishing to do so. Third parties suggest that there is no need for another community use but I have no details of other facilities or the demand for community uses to consider this a material objection.
10. In summary and for the reasons given above, the proposed change of use would not have a harmful effect on the vitality and viability of the Rosehill District Centre and would not be contrary to policies 17 and 18 of the Local Plan.

Other matters

11. Concerns for traffic congestion and noise have been raised by third parties. It was apparent from my site visit that Wrythe Lane is a busy thoroughfare with restricted parking. Whilst two parking spaces would be provided to the rear of the site, they would be for staff. However, the parking restrictions to the front of the site would ensure that any competition for parking would not impede traffic movements at the site. The appeal site is served by a moderate level of public transport. To ensure that the community use prioritises public transport above the motor car, it would be reasonable to secure any planning permission with a condition that seeks the approval and implementation of a travel plan. Together with an absence of evidence to suggest that harm would be caused to highway safety and with no objection raised by the Council's Highways Department, I find no harm to highway safety.
12. Similarly, no objection was raised by the Council's Environmental Health Department to noise, subject to conditions for sound insulation and a restriction on the use of sound amplification equipment. Given the residential use above the vacant unit concerned, conditions to this effect would be

² London Borough of Sutton, Sutton Local Plan, 2016-2031 (February 2018)

reasonable to protect the living conditions of existing occupiers from noise and disturbance. There is nothing further within the evidence before me to suggest that noise would cause material harm.

Conditions

13. I have found that the development would not give rise to unacceptable harm and it would comply with the development plan. I therefore propose to allow the appeal and grant planning permission. However, it is necessary to attach planning conditions to the permission to ensure that the development is carried out appropriately. I set out below the reasons for the conditions stated.
14. The Council has suggested a number of planning conditions which I have considered against the advice in the Planning Practice Guidance. In addition to the standard time limitation for commencement I have included conditions relating to a travel plan, noise attenuation and electrical amplification equipment for the reasons given earlier. Also to safeguard the amenity of local residents I have included a condition regarding opening hours.
15. No harm has been identified should the premises be used for Ramadan or for more than thirty people and therefore conditions to restrict the premises in this way have not been included. Furthermore, with no building works proposed, I have not included conditions relating to external materials and detailing or hours of construction.

Conclusion

16. For the reasons given above, and having regard to all other matters, I conclude that the development would not be contrary to the development plan. There are no material considerations to suggest a decision other than in accordance with the development plan and therefore the appeal is allowed.

R Walmsley

INSPECTOR

CONDITIONS SCHEDULE

- (1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- (2) Prior to the first use of the approved premises, a detailed Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall then be implemented in accordance with the approved details.
- (3) The separating ceiling and floor between the ground and first floor of the approved premises shall resist the transmission of airborne sound such that the weighted standardised level difference (DnT,W +Ctr) shall not be less than 50 decibels as measured and calculated in accordance with BS EN ISO 16283-1 2014.

- (4) No electrical amplification equipment shall be used in the premises at any time.
- (5) The use of the building hereby permitted shall not take place outside the hours of 09:00 hours and 19:00 hours.