
Appeal Decision

Site visit made on 16 December 2014

by Jonathon Parsons MSc BSc (Hons) DipTP Cert(Urb) MRTPI
an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 22 January 2015

Appeal Ref: APP/J1535/A/14/2227111
134 High Street, Epping, Essex

- 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 Alan Poulton (A. J. Poulton (Epping) Ltd) against the decision of Epping Forest District Council.
 - The application Ref EPF/1093/14, dated 10 May 2014, was refused by notice dated 20 August 2014.
 - The development proposed is a change of use to A2.
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Decision

1. The appeal is allowed and planning permission is granted for a change of use to A2 at 134 High Street, Epping, Essex in accordance with the terms of the application, Ref EPF/1093/14, dated 10 May 2014, subject to the following condition:
 1. The development hereby permitted shall begin not later than 3 years from the date of this permission

Main Issues

2. The main issues are whether the proposal would result in (a) the loss of a community facility and (b) should a Class A1 retail use be reinstated in the interests of the viability and vitality of the retail centre.

Reasons

Background

3. The appeal site comprises a unit on the south east side of Epping High Street close to its junction with Station Road. The unit is currently in Class D1 use as a drop in centre for young people, including counselling and advice services. The shopping area for Epping is mainly focussed on the High Street and is extensive in length along both sides of the road with few vacant units. Either side of the appeal unit, there is a funeral directors (Class A1) and Estate Agent (Class A2).
4. Change of use of the existing unit from a shop (A1) to the use as a drop in centre for young people was granted in March 2011. A further permission for the alteration of the unit's shop front, following sub division, to form two A1 shops was granted in March 2013.

Community facility

5. Policy CF12 of the Epping Forest District Local Plan Alterations (LPALT) 2006 states planning permission will only be granted for proposals which entail the loss of a community facility where it is conclusively shown that two criteria are met. The first criterion is that the facility is either no longer needed or no longer viable in its current location and the second criterion is that the facility/service, if it is still needed, is already or is to be, provided elsewhere and accessible within the locality to existing and potential users.
6. There are to be new premises for the drop in centre at a former church hall within 150m of the High Street which the appellant indicates has the advantages of being closer to a public car park and cheaper rent. Enclosed documentation with the appeal indicates that the lease of the appeal premises at 134 High Street was to be extended to permit the current drop in centre use to continue whilst the new premises were being fully refurbished ready for the new term in January 2015.
7. No specific correspondence has been received from the drop in centre user to show that the new premises have been secured. However, there is significant reassurance provided from the documentation regarding the new premises which is explicitly stated to be open for use in January 2015 and I have no reason to doubt this. Furthermore, if there had been difficulties with securing alternative premises, I would have expected some comments from customers with an interest in the drop in centre to have reported this.
8. The existing use would no longer be present on the High Street but the relocated premises are to be close by, near to a public car park. The new location would also ensure that that the community facility would not be lost to the town. On this basis, I find that the evidence is compelling in showing that facility is no longer needed in its current location given the availability of alternative premises and the accessibility of these premises to existing and potential users.
9. Paragraph 70 of the National Planning Policy Framework (the Framework) states planning decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. Nevertheless, for the reasons already referred to, there would be no loss of a community facility in the locality and thus there would be no conflict with paragraph 70 of the Framework.
10. The Town Council refer to the conflict of the proposal with Policies CF6 and CF12 of the adopted Local Plan and Alterations. Although I have not been supplied with a copy of Policy CF6, the reference to it is made within the context of the loss of a community facility which for the reasons stated has not been lost based on the evidence before me.
11. In summary, the proposal would comply with LPALT Policy CF12 and paragraph 70 of the Framework because there would be no loss of a community facility and satisfactory alternative provision would be provided for the reasons stated.

Retail use

12. LPALT Policy TC4 states that the Council will grant planning permission for new non-retail uses at ground floor level within a key retail frontage provided that it would not result in the non-retail frontage exceeding 30% and more than two

adjacent non-retail uses, regardless of shop frontage width. The proposal would result in a change of use of the existing D1 use to A2 use but this would not result in a new non-retail use as the existing D1 use is already non-retail. Therefore, there would be no conflict with LPALT Policy TC4.

13. The circumstances behind the original 2011 planning permission for the existing D1 user have been highlighted. It was granted on the premise that the loss of the previous A1 use was only justified because of the valuable community work undertaken by the current occupants and that on cessation, the A1 use would revert to the unit. It has therefore been put to me that local retail policies should apply given the original circumstances of the permission. However, there is no policy provision within LPALT Policy TC4 to justify such an approach and no other local retail policies have been highlighted to me other than this policy. Furthermore, no confirmation has been provided to show me that this existing permission has a mechanism to ensure that A1 retail use would revert, once the D1 use ceased.
14. Moreover, the existing D1 use is now an existing element in the shopping area and forms part of the context of the appeal proposal and consequently is of far greater significance in my deliberations. The Council have referred to a strong retail element being traditionally seen as a vital element to a healthy town centre and one which has vitality and viability. It also pointed out that Councils are justified in making decisions which promote the retail element of town centre key frontages. However, for the reasons indicated, there will be no loss of retail use and there is no information before me to indicate that the contribution of the proposed use to the vitality and viability of the retail centre would be less than the current use.
15. Mention has been made of the changes to permitted development regulations which enable movement between various use classes without the need for planning permission. Although this could result in loss of an A1 use under certain circumstances, these changes are for a limited period only. As a result, this consideration has been of limited weight in my assessment of the proposal.
16. In summary, there would be no justification to turn down this proposal on the basis that a retail use should be reinstated and there would be no conflict with LPALT Policy TC4.

Other matters

17. As the site is within the Epping Conservation Area, I am required to pay special attention to the desirability of preserving or enhancing the character or appearance of that area in accordance with the statutory duty under s72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990. There would be no external changes proposed and the proposed use would still maintain pedestrian contact and activity, a feature of the Conservation Area. For these reasons, the proposal would preserve the character and appearance of the Conservation Area. Such a view is supported by the lack of Council objection on this matter.
18. Concerns have been expressed about the termination of a lease of a long standing and good tenant at No 134. However, this is matter between the existing user and the landlord, and in any case, other alternative premises are to open in 2015 as previously indicated based in the evidence before me. Further comments have been made about the lack of need for another A2

facility and the impact on business but I cannot attach any significant weight to these matters as they relate mainly to competition and not planning matters. Thus, they do not outweigh my favourable conclusions on this appeal proposal.

Conditions

19. Planning conditions have been considered in light of advice contained in Planning Practice Guidance. The Council have recommended a time commencement conditions which I have imposed. There is no requirement for further conditions given the nature of the proposal.

Conclusion

20. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

INSPECTOR