

Appeal Decision

Site visit made on 29 July 2015

by M C J Nunn BA BPL LLB LLM BCL MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 27 August 2015

Appeal Ref: APP/B1930/W/15/3035672

68 Lattimore Road, St Albans, Hertfordshire, AL1 3XR

- 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 Oakley against the decision of St Albans City & District Council.
 - The application Ref: 5/14/3158, dated 19 December 2014, was refused by notice dated 8 April 2015.
 - The development is described as "two storey rear extension plus basement and change of use from shop on ground floor to residential".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. An application for costs has been made by Mr Alan Oakley against St Albans City & District Council. This application is subject of a separate decision.

Main Issue

3. From all that I have read, I consider the main issue to be whether the proposal would be consistent with the aims of national and local policy, particularly in relation to valued facilities and established shops.

Reasons

4. The appeal site comprises a terraced property close to the main shopping area of St Albans, and is within walking distance of the railway station. The building consists of a basement, ground floor and first floor. About half of the ground floor is currently occupied by "*Buongiorno Italia*", a cafe / delicatessen. This business also occupies the adjacent retail unit at No 66 Lattimore Road, and the two units are linked internally to provide a single shop. There is a sitting out area to the front. The remainder of No 68, including the rest of the ground floor, upper floor and basement comprises an un-modernised residential flat in a poor state of repair. The surrounding area is a mix of commercial and residential uses. The building is locally listed and falls within the St Albans Conservation Area.
 5. The National Planning Policy Framework ('the Framework') sets out the Government's up-to-date planning policies and is a material consideration in
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planning decisions. Of particular relevance is Paragraph 70 of the Framework. This states that to deliver the social, recreational and cultural facilities the community needs, decisions should plan positively for community facilities, such as local shops, and ensure that established shops, facilities and services are able to develop and modernise in a way that is sustainable. It also advises guarding against the loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs.

Paragraph 69 seeks to promote opportunities for meetings between members of the community, through mixed use developments, and active street frontages. Paragraph 23 promotes competitive town centre environments that provide customer choice and a diverse retail offer, as well as pursuing policies to support the viability and vitality of town centres.

6. The Framework does not change the statutory status of the development plan as a starting point for decision making. Importantly, however, the Framework advises at Paragraph 215 that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The Council's Committee Report refers to a number of policies within the City and District of St Albans District Local Plan Review ('the Local Plan'), which dates from 1994. These include Policy 51 which sets out the overall strategy towards shopping and services, and seeks to maintain and enhance the vitality and viability of existing centres; and Policy 52, which defines various types of retail frontage. As the site does not fall within a defined retail frontage, Policy 56 is relevant. This states that the loss of retail is acceptable if other shops to cater for the daily needs of the local population are available nearby.
7. The Local Plan is now over 20 years old and, in this particular case, I am not convinced that the approach allowing the loss of retail floor space if other shops catering for the daily needs of the local population are available nearby, fully takes account of up-to-date Government policy contained in the Framework. This is because a main thrust of national planning policy is to resist the loss of valued facilities, and to ensure established shops are able to develop, and are retained for the benefit of the community. A further important objective of the Framework is promoting competition, customer choice and a diverse retail offer.
8. At my visit, I observed this business sells a wide range of high quality Italian foods including Italian pasta, cheeses, salami, olive oil and other assorted groceries. It has won a number of awards. The shop is clearly a very popular and valued facility, as evidenced by the substantial number of representations objecting to the change of use. The shop's owner also advises that the business provides around 4 full time jobs, 2 part time jobs and temporary work for students. Considerable financial investment has taken place in the business over a number of years. I consider, therefore, it contributes to the fundamental economic and social objectives of the Framework, outlined above.
9. The appellant states that the scheme would not result in the wholesale loss of the facility, and the reduction in floor space (around 18.2 sqm) would be negligible. Nevertheless, from my visit, it was obvious that this floor space forms an integral part of this established, well regarded shop. The appellant's proposal to incorporate the retail floor space into the existing residential unit could not but adversely affect this thriving business. Indeed, the shop owner argues that the loss of a significant area of the shop's floor space is likely to

seriously compromise the future viability of the business, and lead to its eventual closure. Even on the assumption the business remains open, I consider this scheme would severely compromise its current operations, contrary to the various roles of the planning system outlined in the Framework, particularly its economic role, contributing to a strong, responsive and competitive economy; and its social role, providing accessible local services that reflect the community's needs.

10. The appellant says that there is a plethora of other retail outlets in the local area, and a retail audit is provided as proof of this. I do not doubt the findings of the audit. However, a significant number of representations mention the specific shop 'offer', and the specialist nature of providing Italian goods and groceries, which are not available elsewhere in St Albans. Whilst I accept that there are many other shops locally that cater for daily needs, I consider this independent shop offers a specific and important facility in St Albans that contributes to the social and economic objectives of the Framework.
11. The appellant argues that other benefits would arise from the proposal, including restoring the locally listed building, re-roofing it in slate, modernising the residential accommodation, as well as clearing debris from the overgrown rear garden and landscaping it. However, the existing flat, although internally outdated and un-modernised, is of an adequate size, set over three levels. Importantly, I see no cogent reason why refurbishment of the residential element of the building should require or be dependent on a change of use of the ground floor.
12. The appellant also argues that the scheme would improve the appearance of the locality by removing the existing shop frontage, including signage and advertising. However, I do not find these elements objectionable within the street scene. Indeed, arguably they contribute to its varied character, and so I do not consider that this weighs heavily in favour of the proposal.
13. The appellant refers to the absence of a five year housing supply within the district, arguing this scheme would contribute to the supply. However, this proposal would not create an additional new residential unit, but would merely upgrade and enlarge an existing one. Therefore, I do not consider this argument can weigh heavily in favour of the appeal.
14. I appreciate that the appellant is the freeholder of the building, and the existing lease may expire in due course. The terms of the tenancy, including its extension or termination, are a private matter between the landlord and the tenant. I am fully aware that the planning system regulates the use of land, and is not concerned with the protection of individual tenants or private individual interests. However, the Framework is clear that it is proper to guard against the loss of valued facilities, and to ensure established shops are able to develop and modernise.
15. The appellant draws attention to 'Class M' of the Town and Country Planning (General Permitted Development)(England) Order 2015 ('the GPDO'), which allows changes of use of retail units to dwellinghouses in certain situations. The appellant argues that the existence of such permitted development rights is demonstrative of the direction of national policy. However, such changes of use are subject to important conditions specified in the GPDO, including the

impact on, amongst other things, the adequate provision of services of the sort provided by a shop.

16. I have carefully weighed all the arguments put forward by the appellant, including the economic benefits that would accrue during refurbishment and construction; that the site is in a highly sustainable location, close to local facilities; that there would be a reduction in noise from the shop; that future occupiers of the residential property would use local shops and services, thereby supporting the economy; and that it would comply with local parking requirements. However, none of these factors alter my findings on the main issue.
17. The site is located within the St Albans Conservation Area. The relevant legislation requires that special attention be paid to the desirability of preserving or enhancing the character of such areas. The Council has not raised objections in relation to the proposal's effect on the Conservation Area, or in respect of the effect on the locally listed building. I see no reason to take a different view on these matters and I am satisfied that the proposal, including the rear extension, would preserve the character of the Conservation Area, in compliance with relevant legislation and Policy 85 of the Local Plan. However, this does not alter my other concerns above.
18. I am aware that the case officer recommended that the application be granted, but that the Council's Planning Committee took a different view. The appellant argues that the Committee was unduly swayed by local opposition to the scheme. The Planning Practice Guidance does not advocate that decision-making should be on the basis of a count in favour compared with those against, or that the level of local objections in itself should be a reason to withhold permission, unless it is founded upon valid material planning reasons. In this instance, however, I have assessed the appeal on its planning merits and find it to be unacceptable on planning grounds.
19. Overall, I conclude this scheme would run counter to a number of important aims within the Framework, particularly in relation to valued facilities and established shops. Therefore, for the reasons above, the appeal is dismissed.

Matthew C J Nunn

INSPECTOR