



Appeal Decision

Site visit made on 19 March 2019

by Chris Forrett BSc(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5th April 2019

Appeal Ref: APP/X5210/W/19/3219986
183 York Way, London N7 9LN

- 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 Mrs Kathleen Lawson against the decision of the Council of the London Borough of Camden.
 - The application Ref 2018/4712/P, dated 30 September 2018, was refused by notice dated 24 December 2018.
 - The development proposed is the change of use from existing cafe A1 to A3 with no physical changes or external ventilation required.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the development would harm the retail character, function, vitality and viability of the neighbourhood centre.

Reasons

3. The appeal site is located on the corner of York Way and Camden Road and is within the Brecknock Road/York Way neighbourhood centre. The site is currently occupied by the "Portobello Juice Hub" which is a juice bar which from the application form serves fresh juices, smoothies, coffee, salads, breakfasts, and vegan food.
4. From the evidence before me the lawful use of the appeal site is Class A1¹. From my site visit I saw that there is a food preparation and sales area together with three tables within the premises and a further two tables on the external raised forecourt.
5. The Appellant has stated that the use is borderline Class A3, although from the limited evidence before me it is unclear whether the existing operation falls within Class A1 or A3. Notwithstanding that, the proposal before me is for the change of use of the premises to a Class A3 use and as such it is not necessary for me to conclude whether the existing business would be a Class A1 or A3 use (or a mixed use).
6. Policies TC1 and TC4 of the Camden Local Plan (2017) (LP), together with the guidance contained within the Town Centres and Retail Supplementary Planning Document (2018) (SPD) aim to ensure that the level of retail (Class

¹ as defined by The Town and Country Planning (Use Classes) Order 1987

- A1) provision in neighbourhood centres is not less than 50% of premises in an individual building frontage, or that there is not more than three consecutive premises not in Class A1 use. The overarching aims of these policies is to protect the viability and vitality of such centres by not eroding the retail offer.
7. It is common ground between the main parties that there is currently less than 50% of the building frontage in Class A1 use. It is also clear that to allow the appeal premises to change to a Class A3 use would result in four consecutive premises being in uses other than Class A1. Therefore, the proposal would be clearly contrary to the adopted Development Plan.
 8. My attention has been drawn to other groups of buildings where there is more than three non Class A1 retail uses. Whilst this may well be the case, this does not justify a further erosion of Class A1 retail uses.
 9. I am also aware that there are permitted development rights for the change of use of a Class A1 premises to Class A3². However, there is a need to apply for prior approval and one of the considerations that the Council would undertake would be the effect of the change of use on the provision of services of the sort which may be provided by a building falling within Class A1. To that end, I give this little weight.
 10. The Appellant has also commented on the 2017 revaluations which put the shop liable to business rates and that the existing business has been well received by the local community.
 11. Whilst the rate changes may have had an effect on the viability of businesses in the area this does not in itself justify the change of use of the appeal premises. I have also had regard to the positive views expressed which weighs in favour of the development.
 12. However, neither of these factors provide for a compelling reason to grant planning permission when to do so would be clearly contrary to the adopted Development Plan for the area.
 13. For the above reasons the development would harm the retail character, function, vitality and viability of the neighbourhood centre contrary to Policies TC1 and TC4 of the LP which amongst other matters seek to protect the viability and vitality of neighbourhood centres by ensuring that the level of retail (Class A1) uses is not unacceptably eroded.

Conclusion

14. Taking all matters into consideration, I conclude that the appeal should be dismissed.

Chris Forrett

INSPECTOR

² Schedule 2 Part 3 Class C of The Town and Country Planning (General Permitted Development) (England) Order 2015