
Appeal Decision

Site visit made on 23 December 2014

by G J Rollings BA(Hons) MA(UD) MRTPI

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

Decision date: 30 March 2015

Appeal Ref: APP/G5180/A/14/2227107
Caligulette, 201 High Street, Bromley, BR1 1NY

- 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 Alex Marshall against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/14/00568/FULL2, dated 13 February 2014, was refused by notice dated 9 April 2014.
 - The development proposed is a change of use from restaurant use A3 to cocktail bar A4.
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Decision

1. The appeal is allowed and planning permission is granted for shopfront alterations and a change of use from restaurant use A3 to cocktail bar A4 at Caligulette, 201 High Street, Bromley, BR1 1NY in accordance with the terms of the application, Ref DC/14/00568/FULL2, dated 13 February 2014, subject to the following conditions:
 - 1) The development hereby permitted shall begin not later than three years from the date of this decision.
 - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Proposed plan; Demolition plan; Proposed elevation; Proposed elevation (doors and windows).
 - 3) The use hereby permitted shall not be open to customers outside the following times: 10:00-23:00 Sunday to Thursday; and 10:00 Friday and Saturday to 00:30 on the immediately following morning.

Procedural Matter

2. The original description of development does not include physical works to the property. I have amended the description of development within my decision to take account of this.

Main Issues

3. The main issues are:
 - The effect of the proposed development on the character and appearance of the conservation area; and

- The effect of the proposed development on the living conditions of nearby residents and on other users of the town centre, with particular reference to noise and disturbance, and crime.

Reasons

Character and appearance

4. The appeal site accommodates a building which at the time of my visit was being fitted out as a restaurant. It has a wide street frontage with windows facing onto the pavement, and a pedestrian access running along one side, which leads between the high street and a large supermarket to the rear. The site is within the Bromley Town Centre Conservation Area. The appeal proposal includes alterations to the shopfront in addition to the proposed change of use.
5. I noticed during my visit that this part of the town, especially in relation to other parts of the large town centre, has a concentration of evening entertainment uses. These include a cinema, several pubs and late-trading restaurants. The overall character however remains that of a mixed-use town centre, due in part to the large number of shops and other retail uses which line the high street. Whilst not as retail-focused as the areas of the centre to the south, the low number of vacant units within the area surrounding the high street and the high flow of pedestrian traffic during my visit suggests that the retail environment is generally healthy.
6. The previous use of the site was as a restaurant, and the intended use of the appeal site as a cocktail bar offering a limited food menu would not result in the loss of a retail unit, and the site is not within a primary retail frontage as designated by the Council. Based on the evidence before me, the former use of the site appears to have been evening-focused, and there is insufficient evidence to suggest that the intended use would not, subject to effective control and conditions as set out in the next part of my decision, alter the current mixed-use balance in favour of a drinking-led character.
7. There is no dispute between the parties that the proposed physical works to the property, which would be minor in nature, would not have an adverse effect on the character or appearance of the Conservation Area. Having considered the proposal and visited the site I concur with that view. Additionally, having considered the other concerns put to me regarding the proposed use, I do not consider that it would harm the character or appearance of the host dwelling or the surrounding area. For these reasons, I conclude that the development would preserve both the character and the appearance of the Conservation Area and sustain the significance of the heritage asset in accordance with the *National Planning Policy Framework*. There would be no conflict with the Council's *Unitary Development Plan (UDP) (2006) Policies S9 and S10*, which together seek to protect retail frontages and ensure that new class A4 uses have no adverse impacts upon the local environment. I have also had regard to the Council's adopted *Bromley Town Centre Conservation Area Statement (2011)* in coming to my decision.

Living conditions and other town centre users

8. The proposed development would be subject to a range of security measures, including the provision of door staff, closed-circuit television and noise monitoring. The Noise Impact Assessment submitted by the appellant in support

of the appeal suggests that any noise generated from within the premises would be contained, and I am satisfied that the findings of the assessment are reasonable.

9. The site is within an area where there is a number of other evening and night-time uses, and concerns were raised regarding the late closing time of the proposed use as originally proposed, which would have been after the operating hours of daytime public transport on Friday and Saturday nights. The appeal proposal amends the proposed opening times to that of the former restaurant which operated from the site. In any case, I noticed during my visit the extensive night bus network which operated from the town centre in the vicinity of the site, and the availability of local licensed taxi firms. I note the intention of the appellant to also serve light food options, but I have considered the possibility of the use operating under different management in the future. In any case, the fixing of the operating hours by condition would ensure that the potential for external noise generated by patrons leaving the premises during unsociable hours would be reduced.
10. I have also considered the prospect of several uses in the area closing at the same time, and the likelihood of any anti-social behaviour. Licensing Policy offers control over the operation of the venue and its efforts in ensuring that patrons are dispersed from the venue in an orderly manner, and it is not my intention that such controls are duplicated in this decision. Taking into account the proposed operating hours as well as those of the surrounding venues, there would be sufficient variation to ensure that there would not be a 'critical mass' of drinkers dispersed from several venues, including the appeal site, at one time.
11. I therefore conclude that the proposed development would not have an unreasonably harmful effect on the living conditions of nearby residents and on other users of the town centre, with particular reference to noise and disturbance, and crime. There would be no conflict with UDP Policies BE1 and S9, which require new development (including class A4 uses) to not have an adverse impact on amenity, and include security and crime prevention measures.

Conclusion and Conditions

12. For the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be allowed.
13. The Council has specified conditions which I have considered in light of the tests set out in the Practice Planning Guidance (PPG). Conditions 1 and 2 are required in the interests of proper planning and for the avoidance of doubt.
14. The hours as applied for within the application were for opening until 23:00 Sunday to Thursday, and 01.00 in the morning following Friday and Saturday evenings. The most recent approval (2006) for the former restaurant on the site, enabled operation to 00.30 daily. Taking into account the Council's and appellant's comments as noted above, I consider the hours noted in the condition 3 to be the most appropriate in terms of preserving the character of the town centre, and the living and other conditions of nearby residents and users of the town centre.

G J Rollings

INSPECTOR