



Appeal Decision

Site visit made on 24 August 2010

by **Jill C Kingaby** BSc(Econ) MSc MRTPI

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

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Decision date:
1 September 2010

Appeal Ref: APP/Z0116/A/10/2127967 42-44 West Street, Old Market, Bristol BS2 0BH

- 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 E Zadeh against the decision of Bristol City Council.
- The application Ref 09/03268/F, dated 19 08 09, was refused by notice dated 15 12 09.
- The development proposed is "Change of use of ground floor and 1st floors with an A3/A4 use by day and a sui generis lap dancing club by night, residential development at floor, rear extension and replacement shopfront".

Decision

1. I dismiss the appeal.

Preliminary matters

2. The Council's decision notice changed the description of development from that given on the application form and recorded above. I accept that a café licensed to sell alcohol rather than a restaurant/wine bar is the Appellant's intention under A3/A4 use. However, the Council's description is clearer as it refers to two flats at second and third floor level. I shall determine the appeal with reference to the Appellant's description and on the basis of residential development on the second and third floors.
3. Following refusal by the Council, the Appellant submitted a plan which showed revised internal arrangements, No 7036/16144/H. It added a kitchen in place of the ladies WC on the ground floor, showed tables and chairs, changed the position of a staircase, and altered the first floor layout to accommodate a ladies WC. I comment on this plan in my decision.

Main issue

4. The main issue in this appeal is the impact of the proposed lap dancing club on the vitality and viability of the Old Market/West Street retail frontage and whether it would contribute to schemes for regeneration in the area.

Reasons

5. Planning permissions have been granted in recent years at the appeal site for change of use of retail shop to restaurant takeaway (Use classes A3 and A5) and external alterations to include a new two-storey extension to the rear, and for new second and third floor flats (Refs 07/00519/F, 07/05538/F and 09/00474/F). The building is currently vacant and refurbishment/new building is in progress. The extensions and external alterations currently sought are broadly similar to those already permitted, except for a proposed smoking
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terrace at first floor level. The appeal site is located within the Old Market Conservation Area and I accept that, with an adjustment to the design of the roof beside the smoking area as suggested by the Council, the planned physical changes should be beneficial to the character and appearance of the building. The major physical improvements are achievable, however, on the basis of extant permissions and do not rely on the current proposal.

6. The appeal site lies within a key city centre area, where Policy CC1 of Bristol Local Plan identifies opportunities for regeneration. Old Market/West Street is named as a gateway scheme where renewal and improvement should provide the key to building a positive and attractive image. The appeal site is also within a secondary retail frontage where saved Policy S6 of the Bristol Local Plan permits retail shops, food and drink uses and other uses of general public interest or service including nightclubs, provided they would not give rise to any unsatisfactory environmental conditions.
7. In Old Market/West Street, the shopping and general service function has been in decline for some time. A Goad report in March 2009 found that more than 50% of all premises in the secondary shopping frontage were vacant. The Old Market Community Association acknowledges the area's long-standing reputation as a red light district but draws attention to some significant recent changes. As a result of regeneration, it estimates that more than 400 new flats have been provided with 100 more in the pipeline. A number of new businesses have also been created in the area. However, the Community Association notes that West Street lacks shops to serve the daily needs of the local community. Tesco were reported to have rejected a site in West Street for an Express store recently, citing the local sex related businesses as a significant factor. Prompted by the Community Association, some 300 local residents signed a petition opposing the current proposal, claiming that a new lap dancing club could inhibit the influx of businesses that might serve the community or enhance the area.
8. The ground floor of the appeal site has been vacant for several years. Marketing of the premises for retail purposes is said to have demonstrated no interest, although no evidence of this marketing has been provided. The Appellant pointed out that the proposal would create a new active frontage day and night. However, the Council, supported by a significant number of interested persons and parties, argued that the intended lap dancing club would not be in the general public interest or provide a useful local service, as expected by Local Plan Policy S6. I saw at my site visit evidence that this locality has become a focus for the night time economy and "adult entertainment". The proposal, alongside the existing "Temptations 3" lap dancing facility would reinforce that specialism.
9. I accept that the relationship to the inner circuit road, traffic management and bus priority measures on this heavily-trafficked street have had a detrimental effect on the health and success of the shopping function on West Street. However, I do not discount the effect of the concentration of sex related uses on vitality and community-based economic regeneration. Local residents and workers contend that the presence of these uses is off-putting and causes them to avoid walking along the road especially after dark.

10. The Government's Planning Policy Statement 4: Planning for Sustainable Economic Growth (PPS4) expects local planning authorities to manage the evening and night time economy, setting out the number and scale of leisure development taking account of their potential impact, including the potential cumulative impact on the character and function of the centre, anti-social behaviour and crime, and the amenities of nearby residents. Even though the police raised no objection to this proposal, the significant amount of local opposition indicates to me that the concentration of sex related outlets in this locality may have reached a critical level.
11. The Appellant advised that the lap dancing club would be in use after 9pm and would be aimed at the gay and lesbian community. Others questioned the attraction of lap dancing to that community and no evidence was submitted to justify the linkage. Although it is also suggested that the ground floor would operate in the daytime as a café/drinking establishment, the plans submitted with the application showed no evidence of café use, omitting even the existence of a kitchen. Whilst the revised plan aimed to rectify this, its late submission suggests that it was an afterthought. The main purpose of the proposal appears to be to establish the lap dancing club. I accept that the attractiveness of the café to residents and those working locally could be adversely affected by its close association with the evening use.
12. Saved Policy S8 permits food and drink uses in shopping centres and parades which will not give rise to harm to residents' amenity. I accept that an acoustics report was submitted with the proposal which concluded that sound insulation measures could be installed to limit noise breakout. Occupiers of the proposed residential flats would not be disturbed by the lap dancing club. The Council was satisfied that use of the open smoking area would not cause unacceptable noise for residents in the locality.
13. I consider that regeneration, though much dependent upon harnessing economic forces, is also determined by social factors and requires local support to be successful. There is clearly a high level of local opposition to the current proposal for a lap dancing club. It seems to me that the proposal would not contribute to building a positive and attractive image introducing uses of general public interest or service to West Street as sought in saved Local Plan Policies CC1 and S6. I conclude that the proposed lap dancing club could have a materially detrimental effect on schemes for continuing regeneration in the area and stimulating the vitality and viability of Old Market/West Street.
14. For the reasons given above I conclude that the appeal should be dismissed.

Jill Kingaby

INSPECTOR