

Appeal Decision

Site visit made on 19 September 2016

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 10 October 2016

Appeal Ref: APP/C5690/W/16/3154821

287 Sydenham Road, London SE26 5EW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development)(England) Order 2015.
 - The appeal is made by Mr Paul Towlson, ProAmbient Ltd against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/16/096490, dated 2 May 2016, was refused by notice dated 28 June 2016.
 - The development proposed is described as 'the proposal is for a change of use from class use A1 to class use C3 (self contained flat)'.
-

Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (2015 GPDO) for a change of use from Class A1 to Class C3 (self contained flat) at land at 287 Sydenham Road, London SE26 5EW in accordance with the details submitted pursuant to Schedule 2, Part 3, Class M of the GPDO.

Procedural matter

2. I have amended the description of development in my decision above from that set out in the application for clarity.

Main Issues

3. The provisions of Schedule 2, Part 3, Class M.2. of the 2015 GPDO require the local planning authority to assess the proposed development on five conditions. In this case, the matters of concern are condition (d)(ii) the impact of the change of use, where the building is located in a key shopping area, on the sustainability of that shopping area and condition (e), the design or external appearance of the building.
 4. The main issues for the appeal therefore are:
 - The impact of the change of use on the sustainability of the shopping area; and
 - The impact of the change of use on the design or external appearance of the building.
-

Reasons

Sustainability of the shopping area

5. The appeal site comprises the ground floor of a three storey building situated on Sydenham Road, at its junction with Elderton Road. The appeal property was vacant at the time of my site visit and was formerly occupied as a retail unit. The upper floors of the building are understood to be in residential use.
6. I saw on my site visit that the appeal property is one of a group of shops on Sydenham Road. Opposite the appeal site across Elderton Road is 285 Sydenham Road, which I saw has an altered shop front and adjacent to that, a newsagent. To the other side are four hot food shops, a motor tyre retailer and several vacant units. Beyond the junction with Larkbere Road are hairdressers, a convenience store, hot food shop, laundrette and several vacant units. There are no important local services, such as a Post Office in the parade, and the existing premises offer only limited facilities, which would not fulfil local resident's day to day needs.
7. The aim of Class M of the 2015 GPDO is to enable local planning authorities to protect valued and successful retail provision in key shopping areas, such as town centres. The Council identify that the shopping area is a 'local shopping parade'. The Council has referred to paragraph 23 of the National Planning Policy Framework which includes that when drawing up local plans, local planning authorities should define the extent of town centres and primary shopping areas based on a clear definition of primary and secondary frontages in designated centres, and set policies that make clear which uses will be permitted in such locations. However, I have not been provided with any evidence that the shopping parade has been so identified in the development plan.
8. I also note that the Council describes the application site as falling on the outskirts of the Sydenham major town centre, and is as such considered to be a key shopping area. However, I saw at my site visit that the shopping parade is separated from the main part of the town centre by a considerable area of non-retail or commercial uses. Additionally, I note from the appellants evidence that the parade was not included within the Lewisham Council Major and District centres retail survey 2012. Whilst the Council has questioned the marketing of the property, the appellant has provided unchallenged marketing evidence with the appeal which, whilst it covers a relatively short period, does not demonstrate interest in the property for a use other than for A3/A5 Uses.
9. I have considered the comments that the appeal proposal would interrupt the continuity of the existing commercial frontage and would affect the vitality of the shopping parade and have negative effects upon the town centre, but I saw nothing on my site visit or in the evidence provided to persuade me that the area is a key shopping area, where sustainability considerations would need to be considered, as required by Schedule 2, Part 3, Class M.2(1) Condition (d)(ii) of the 2015 GPDO.
10. To conclude on this issue, due to the location of the appeal site outside of a key shopping area, I have found no conflict with condition (d)(ii) of Schedule 2, Part 3, Class M.2(1) of the 2015 GPDO.

Design or external appearance of the building

11. I saw at my site visit the variety of shop fronts on properties forming the parade, and noted that many have roller shutter security measures. The appeal proposal involves the removal of the existing signage and retention of the shop fascias. It is proposed that the existing window and door openings would be altered, with the windows retained with solid timber panels inserted to the lower parts, and areas of obscure glazing with clear glazing top opening windows above. Whilst these changes would alter the appearance of the appeal premises, it would nevertheless retain a commercial appearance and not be dissimilar to the adjacent 285 Sydenham Road.
12. I do not consider therefore that the appeal proposal, through the design and appearance of the shopfront, would be incongruent within the street scene nor be out of character with the wider shopping parade or give rise to significant harm to the character of the wider area. To conclude on this matter, I find no conflict with condition (e) Schedule 2, Part 3, Class M.2.(1) of the 2015 GPDO.

Conclusions

13. There is no harm identified by the Council in respect of transport and highways, contamination risks, flooding risks or adequate provision of services. From the evidence before me and from what I saw on my site visit I have no reason to disagree.
14. For the reasons given above I conclude that the appeal should be allowed and prior approval granted. In granting approval, the appellant should note that the 2015 GPDO requires at Paragraph M.2(3) that the development must be completed within a period of 3 years starting with the prior approval date and a building which has changed use under Class M is to be used as a dwellinghouse within the meaning of Class C3 of the Schedule to the Use Class Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwellinghouse.

Philip Lewis

INSPECTOR