

Appeal Decision

Site visit made on 27 September 2016

by Jason Whitfield BA (Hons) DipTP MRTPI

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

Decision date: 07 November 2016

Appeal Ref: APP/V5570/W/16/3152884

140 Blackstock Road, London N4 2DX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class M of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Shane Perkins, Tuncy Investments Ltd against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/1425/PRA, dated 6 April 2016, was refused by notice dated 8 June 2016.
 - The development proposed is change of use from laundrette to create a dwellinghouse.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) Order (England) 2015 (GPDO) permits the change of use of a building from a use as, amongst other things, a laundrette to a use as a dwellinghouse, along with building operations reasonably necessary to convert the building.
 3. There is no dispute between the main parties that the development would comply with the criteria of Paragraph M.1 of the GPDO and is therefore permitted development. On the evidence before me, I have no reason to come to any alternative view.
 4. Nevertheless, development permitted under Class M is subject to the condition that before commencement an application must be made to determine whether prior approval is required in respect of the matters referred to in (a)-(e) of paragraph M.2(1). The Council has raised no concerns in respect of the transport and highway impacts, contamination risks, flooding risks or the design or external appearance of the development. Whilst I have had regard to the views of interested parties in respect of these matters, I have, on the evidence before me, no reason to come to an alternative view to that of the Council.
 5. The main parties dispute the compliance of the proposal with the matter set out in (d) of paragraph M.2(1) of the GPDO. Paragraph M.2(1)(d)(ii) states that prior approval must be sought as to whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use,
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where the building is located in a key shopping area, on the sustainability of that shopping area.

6. On that basis, I consider the main issue in dispute between the main parties is whether it would be undesirable for the building to change to a use as a dwellinghouse having regard to the effect on the sustainability of a key shopping area.

Reasons

7. The appeal site is a mid-terrace building located on the western side of Blackstock Road. This part of Blackstock Road is predominately characterised by retail units on the ground floor, with several properties containing residential uses on upper floors. The appeal site is within Finsbury Park Town Centre and is included within a designated Secondary Retail Frontage as set out in Annex 2 of the Islington's Local Plan Development Management Policies 2013 (DMP).
8. As the appeal site lies within a secondary frontage within the designated Town Centre, the Council considers that it forms part of a key shopping area. The appellant does not dispute this matter. I agree that it is reasonable to consider the appeal site is located within a key shopping area and therefore the test under M.2(1)(d)(ii) is relevant in this instance.
9. The appellant refers to 2012 'Experian GLA' data which indicates an overall retail premises vacancy rate of 8.1% within the area. However, the Council points to a more recent retail survey of July 2015 which shows a vacancy rate of 7.7% based on overall unit numbers rather than floor space. On either basis, this is not excessive in a shopping area of this size and does not demonstrate a failing centre that is in significant decline. Indeed, my own observations were that most properties were occupied with a significant variety of uses. In my view, this demonstrates a strong and healthy shopping area.
10. Nevertheless, I agree with the Council that a purely quantitative method of vacancy rates to determine the impact on sustainability would be an unduly narrow approach and would not provide a comprehensive assessment. The term 'sustainability' is not defined within the GPDO. Consideration of individual and cumulative impacts on vitality and viability, character, function, and role, in my view, all fall under the general assessment of the impact on sustainability of key shopping areas. Such an approach would be reasonable in my view and consistent with the aims of the National Planning Policy Framework (the Framework).
11. The Council draws attention to the requirements of paragraph D (i) and (ii) of Policy DM4.4 of the DMP. The proposals are not a planning application and no reference is made to the development plan in the procedural requirements under Class M. Statutory requirements for planning applications to be determined in accordance with the development plan are not therefore engaged. However, having regard to the case law provided by the Council and as a policy which is broadly consistent with the Framework, I am satisfied that Policy DM4.4 is a consideration of material relevance in determining the effect on the sustainability of a key shopping area.
12. Policy DM4.4 sets out criteria to assess changes from main town centre uses to other uses, including residential. Part D(ii) of DM4.4 states that the change to

residential may be acceptable where residential use is consistent with the role and function of the street. The role and function of the street are, in my view, key facets in assessing the sustainability of the shopping area.

13. Whilst there are residential uses at upper floors and in the wider area, at ground floor the prevailing character is a continuous retail frontage across several blocks. The property forms part of a coherent terrace of such retail units. The loss of one of those units and its replacement with a residential use would appear out of keeping. Moreover, the introduction of a non-retail use and a non-active frontage into the area which would likely make the area less commercially vibrant and attractive. Introducing a residential use in such close proximity to commercial uses could affect the operation of existing or future retailers. As a result, the proposal would begin to undermine the vitality and viability, the character, role and function of the shopping area.
14. Part D(i) of DM4.4 requires two years marketing and vacancy evidence to be submitted to demonstrate that there is no reasonable prospect of the unit being used in its current use in the future. The appeal property has been vacant since March 2015 and has been marketed since January 2016 with no interest to let the premises for a laundrette use. This is in addition to previous marketing between July 2014 and February 2015. The appellant draws attention to existing laundrette and dry cleaning businesses close to the site. It seems, on the evidence before me, that there is adequate provision of other laundrette services within the local area. Indeed, I note that the Council does not dispute this matter.
15. To that end, I am satisfied therefore that if the laundrette at 140 Blackstock Road was lost, the provision of such services within the area would remain satisfactory. There is, therefore, no reason to consider whether there is a reasonable prospect of the building being used to provide such services as set out under Paragraph M.2(1)(d)(i) of the GPDO. In addition, whilst the full two years marketing has not been carried out, the proposal would broadly accord with the aim of the test under Policy DM4.4 as to whether there is no reasonable prospect of the unit being used in its current use in the future.
16. Nevertheless, given the introduction of a discordant residential use at ground floor within an established retail frontage, the proposal would have a harmful effect on the vitality and viability, character, function and role of a key shopping area. That is the prevailing consideration.
17. I conclude, therefore, that the proposal would have a harmful effect on the sustainability of the key shopping area and it would, as a result, be undesirable for the building to change to a use to a dwellinghouse.

Other Matters

18. I note that the proposals would maintain a shop front type façade with opaque glazing to ensure the privacy of future residents of the dwelling. I also note the relatively accessible location of the site and that it would provide adequate space standards for future residents. However, the lack of harm in respect of these matters would not outweigh the harm to the sustainability of the shopping area as identified above.
19. I recognise that a completed Unilateral Undertaking has been provided which would ensure that the unit would be car-free. However, as the appeal is to be

dismissed on other substantive issues, it is not necessary for me to consider it in detail and a conclusion either way would not affect the overall decision.

Conclusion

20. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Jason Whitfield

INSPECTOR