
Appeal Decision

Site visit made on 9 November 2016

by John Morrison BA (Hons) MSc MRTPI

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

Decision date: 5 December 2016

Appeal Ref: APP/N5660/W/16/3156965
12 Station Rise, London SE27 9BW

- 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 Messrs D & P Kinsella against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 16/01711/P3M, dated 15 March 2016, was refused by notice dated 16 May 2016.
 - The development proposed is a change of use from A1 (shop) to C3 (dwellinghouse) and associated alterations to the front elevation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. There is no clear commonality between the description of development as it appears on the planning application, appeal forms or the Council's decision notice. I have therefore used the description set out above as it best describes the development to which the appeal relates. The description has been agreed by the main parties and I have therefore determined the appeal on this basis.

Main Issues

3. There are two main issues. These are;
 - Whether or not the premises were in use for one of the uses referred to in Class M (a) on 20th March 2013, or in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
 - Whether or not the proposed development would result in the loss of an active frontage commercial unit which would diminish the sustainability of a key shopping area.

Reasons

Use of the Premises

4. The appeal relates to ground floor of the building. An estate agency involved with the disposal of the freehold of the building (agreed on 11th March 2013) state that at the time the ground floor was partly fitted out as a hairdressers by prospective tenants but was not operating as such. Whilst not being absolutely
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- certain, the agency understood that the ground floor had been vacant for some considerable time prior to its disposal.
5. The appellants have confirmed that the ground floor was still vacant up until September 2014 when the last known use, the coffee shop and deli, was in operation. This last use apparently ceased in March 2016. The evidence available to me on site such as the layout of the interior and the signage on the outside would appear to corroborate this last known use.
 6. Therefore, at the time that the application was being considered, and at the present time, the ground floor was last used as a coffee shop and deli, and whilst there is limited evidence to clarify the precise nature of the operation, this was likely either A3 (restaurant/café), A5 (hot food takeaway) or a form of mixed use.
 7. I have not been presented with any compelling evidence to confirm, on the balance of probability, that the building was in use on 20th March 2013, specifically as one of the uses referred to in Class M. Whilst it may have been in use as one prior, and possibly for some time, Class M explicitly states that in the case of a building which was in use before that date but was not in use on that date, when it was last in use.
 8. It is clear from the evidence that the last use of the building was as a coffee shop and deli which is not one of the uses referred to in Class M. Consequently the provision for a change of use to C3 (dwellinghouse) under this class would not apply. An application for express planning permission for the change of use is therefore required.

Sustainability of the Local Centre

9. The building is located on Station Rise. Whilst this is part of the West Norwood District Centre, it is clearly secondary to the main shopping area of Norwood Road. It is laid out in a cul de sac arrangement and also forms the access to Tulse Hill underground railway station. Station Rise has a number of what appear to be thriving businesses including, but not limited to, public houses, a convenience store, cafés and a dentist.
10. Station Rise no doubt plays a part in the sustainability of the West Norwood District Centre as a whole. Nevertheless, sustainability of district shopping centres relies as much on the retention of retail uses as diversity with other non-retail uses. In this case the matter of balance is important.
11. I note that, historically, some retail units and thus previously active frontages have been lost to changes of use on Station Rise. The proposed development would involve another. This would not however 'tip the balance' of uses as a whole, particularly when considered in the context of the range and number of other commercial uses that occupy either side of Station Rise.
12. As such, I do not find that that the proposed change of use, whilst resulting in the loss of an active frontage, would materially diminish the commercial offer within the West Norwood District Centre nor consequently cause harm to the sustainability of it. There would therefore be no conflict with Condition M.2 (d) of the GPDO¹, which seeks to ensure that a change of use of a building is desirable in the context of the sustainability of a key shopping area. The

¹ Town and Country Planning (General Permitted Development) (England) Order 2015

proposed development would also accord with the approach set out by the Framework², which encourages planning to support the viability and vitality of town centres more generally.

Conclusion

13. Whilst I do not find that planning harm would arise as a result of a change of use of the building to C3 (dwellinghouse), its last use is not one which is referred to by Class M of Schedule 2, Part 3 of the GPDO. The provisions under that class do not therefore apply to the proposed development and an application for express planning permission is required.
14. It is for this reason that the appeal is dismissed.

John Morrison

INSPECTOR

² The National Planning Policy Framework 2012