

Appeal Decision

Site visit made on 23 January 2017

by Caroline Mulloy BSc (Hons) DipTP MRTPI

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

Decision date: 15th February 2017

Appeal Ref: APP/L5240/W/16/3162303

94 Beulah Road, Thornton Heath CR7 8JF

- 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.
 - The appeal is made by St Pierre, Markka LLP against the decision of the Council of the London Borough of Croydon.
 - The application Ref 16/03243/GPDO, dated 24 June 2016, was refused by notice dated 19 August 2016.
 - The development proposed is change of use from shop to residential.
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Decision

1. The appeal is dismissed.

Main Issues

2. Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits a change of use from a use falling within Class A2 (shops) to a use falling within Class C3 (dwellinghouses), and building operations reasonably necessary to convert the building to such use subject to a number of criteria being met. The Council are satisfied that the proposal would comply with the criteria set out in Class M.1, and I have no reason to disagree with this position.
3. In such cases as the appeal scheme where a change of use and building work is proposed, applications for prior approval should be made in relation to, and relevant to this case, whether the change of use is undesirable because of the impact on (i) the adequate provision of services to the sort that may be provided by a building in A1 or A2 uses, but only where there is a reasonable prospect of the building being used to provide such services, or (ii) where the building is located in a key shopping area, on the sustainability of that shopping area; and (iii) the design or external appearance of the building.
4. Consequently, the main issues of the appeal are the effect of the proposal on (i) the provision of services/sustainability of the shopping area, and (ii) the design/external appearance of the building.

Reasons

Provision of services/sustainability of shopping area

5. The appeal property is situated on the east side of Beulah Road within a designated Shopping Parade as defined in saved Policy SH6 of the Croydon Replacement Unitary Development Plan 2006 (UDP).
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6. Class M.2.(d) (ii) of the GPDO relates to where the building is located in a key shopping area, on the sustainability of that shopping area. A key shopping area is not defined within the GPDO. The building forms part of a large Shopping Parade comprised of around 45 units which, as was evident from my site visit, clearly plays an important role in meeting the shopping and service needs of the community that it serves. Although the matter is disputed, due to its scale and function I consider that it is a 'key shopping area'. This view is supported by the fact that the shopping parade is worthy of protection by a development plan policy.
7. The Shopping Parade is characterised by commercial uses at ground floor including shops, hairdressers, pharmacies, offices and residential above. Although the shopping parade is centred on the junction of Beulah Road and Parchmore Road, units extend somewhat along the eastern side of Beulah Road and the appeal unit is located at the northern periphery of this extension. The appeal unit comprises a ground floor hairdresser (Use Class A1) with existing residential accommodation to the rear of the property and above.
8. The Council consider that the proposal would result in the loss of a shopping area use and would be detrimental to the retail function and vitality of the shopping parade and the retail floorspace in Croydon. However, whilst the proposal would result in the loss of a shopping area use, there is no convincing evidence before me to demonstrate that the proposal would be detrimental to the retail function and vitality of the shopping parade.
9. Across the parade as a whole there are a good range of retail and other A Use Classes, a low level of vacancies and footfall was good around the junction of Beulah Road and Parchmore Road. A higher level of vacancies and lower footfall were evident at the northern end of the parade in the vicinity of the appeal site, reflecting the more peripheral location.
10. Paragraph 70 of the Framework advocates that planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs. If the existing unit at No 94 were no longer to operate I consider that an adequate provision of shops providing a variety of services in the local area would be maintained together with the community's ability to meet their day to day needs, in accordance with the requirements of paragraph 70 of the Framework. Furthermore, I consider that the overall retail character of the shopping area would be retained. Consequently, I consider that the proposal would comply with the requirements of the Framework.
11. I am aware of a concurrent appeal¹ also for a change of use from a shop to residential at no 92 Beulah Road to the north of the appeal property. However, for the reasons stated I consider that there would, nevertheless, be an adequate provision of shops providing a variety of services in the event the two units were no longer in an A Class use.
12. Although there is no statutory obligation to decide a prior approval appeal under section 38(6) of the Planning and Compulsory Purchase Act 2004, the Development Plan may contain material that is relevant to the planning judgments to be made on the subject matter of the prior approval and can therefore be taken into account as a form of evidence. As indicated above I

¹ Appeal reference: APP/L5240/W/16/3162311

have taken account of the plan's designations in concluding that the appeal premises are in a key shopping area.

13. Policy SH6 of the UDP states that the Council will refuse planning permission for development that would result in the loss of Shopping Area Uses. It goes on to say that the Council will consider applications for uses not otherwise permitted by the policy where the premises have been vacant for at least a year and genuine attempts have been made to market them for uses that accord with the policy. However, in the case of a prior approval Class M requires me not to assess the loss of a use or particular business but whether, if a retail unit is lost this would have an undesirable impact on the adequate provision of services falling within Class A1 or Class A2.
14. Given that the applicability of the M.2.(d) (ii) test is disputed I have also considered the application against the M.2.(d) (i) test as detailed in paragraph 4 above. On the assumption that there is a reasonable prospect of the continued use of the premises for A1/A2 uses, in view of the range of A1 and A2 uses present in the area, I conclude that the proposal would not have an adverse impact on the adequate provision of such services.
15. In conclusion, therefore, the proposal would not have an undesirable effect on the adequate provision of services falling with A1 and A2 uses or on the sustainability of the shopping area.

Design/External appearance

16. The appeal property is a traditional two and a half storey building with a commercial use on the ground floor and residential above. Residential properties on the opposite side of the road are traditional three storey terraces with vertically proportioned sliding sash windows, bays to ground floor, mansard roofs and decorative architectural features.
17. The terrace in which the appeal unit is situated consists of 4 properties which have consistency in architectural style at first floor level and above; however, there are a variety of different styles of shop fronts. Whilst there have been unsympathetic alterations to the ground floor shop front of the appeal unit, the historic form and architectural features of the building are still clearly legible. Features include pilasters and decorative pillars rising above the eaves, cornicing and vertically proportioned windows and raised firewalls and chimneys.
18. The ground floor of the appeal property has a shop front which occupies a large proportion of the ground floor elevation. To the north of this is a door which enables access to the residential units on the upper floors. Above the shop front is a large sign on the deep fascia panel between the corbels. The shop front has a relatively simple appearance which reflects its commercial use.
19. It is proposed to partially obscure the existing shop front with solid panelling and to create a smaller window opening with partially obscure glazing to protect the privacy of future residents. It is also proposed to install a replacement entrance door and side window for the residential accommodation.
20. I consider that the various alterations to the existing shop front to enable the residential conversion would result in a fragmented and cluttered arrangement which would lack any coherent architectural identity. The alterations would fail to reflect the design/external appearance of the host property and both

commercial properties and residential properties in the vicinity. The proposal would, therefore, detract from the traditional character and appearance of the host property and the area.

21. For the reasons stated I conclude that the proposal would harm the design/external appearance of the host property and the area. Policies 7.4 and 7.6 of the London Plan 2016 together seek to ensure that development is of the highest architectural quality which provides a high quality design response. Policies SP4.1 and SP4.2 of the Croydon Local Plan Strategic Policies 2013 requires development to be of a high quality and which is informed by the distinctive qualities, identity, topography and opportunities of the relevant Places of Croydon. Furthermore, saved policies UD2, UD3 and UD4 of the Croydon Replacement Unitary Development Plan 2006 relate to the layout and siting and design of new development. I have taken account of these policies which relate to design and appearance and so are material in this case. Given I have concluded that the proposal would harm the design/external appearance of the host property and area the proposal would conflict with these policies.

Conclusion

22. Although I have found the proposal to be acceptable in terms of the provision of services/sustainability of the shopping area, it would cause harm to the design/external appearance of the appeal premises and area. Notwithstanding the benefits which would accrue from the scheme this is harm which I conclude alone justifies refusal of permission for the proposal. Accordingly, for the reasons given above, the appeal should be dismissed.

Caroline Mulloy

Inspector