
Appeal Decision

Site visit made on 27 June 2017

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FIHE

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

Decision date: 27 July 2017

Appeal Ref: APP/R5510/W/17/3172471

109 Pinner Road, Northwood Hills, Northwood, Middlesex HA6 1QL

- 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 C of the Town & Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Harjeet Singh Bhullar against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 58951/APP/2016/4608, dated 3 January 2017, was refused by notice dated 1 March 2017.
 - The development proposed is described as conversion to A3/A5 use. No noise, no odour, rear entrance to collect waste. Opening hours 11am – 11pm. No undesirable impact. Away from shopping area.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal as set out above is taken from the application form submitted to the Council. The description of the proposal was changed By the Council on the Decision Notice to 'Change of use from retail (Use Class A1) to a mixed use comprising restaurants/takeaway (Use Class A3/A5) (Prior Approval)'. This is a more accurate description of the proposal which I have therefore used in the determination of this appeal.
3. The name of the applicant for the prior approval, Mr Harcharan S Bhullar, as appears on the application form, has provided written authorisation for the appeal to proceed with Harjeet Singh Bhullar being identified as the named appellants. I have therefore determined the appeal on that basis.

Main Issues

4. The main issues are:
 - Whether the proposal constitutes permitted development under Schedule 2, Part 3, Class C of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended.
 - The effect of the proposed change of use on the sustainability of the Northwood Hills Secondary Shopping Area.

Reasons

Permitted Development

5. The application was made under Schedule 2, Part 3, Class C of the GPDO. This permits, amongst other things, development consisting of: (a) a change of use of a building from a use falling within Class A1 (shops) of the Schedule to the Use Classes Order to a use falling within Class A3 (restaurants and cafés) of the same order; and (b) building or other operations for the provision of facilities for ventilation and extraction (including the provision of an external flue) reasonably necessary to facilitate the change of use.
6. The appeal property comprises a ground floor shop unit located in a small cluster of commercial and retail premises on the junction of Pinner Road with Joel Street. The Council's reason for refusal indicates that the appeal proposal would not constitute permitted development by virtue of Schedule 2, Part 3, Class C of the GPDO as the proposal includes the change of use to a takeaway (Use Class A5) which is not permitted by the provisions of the GPDO. As such its view is that prior approval cannot be given and that planning permission would be required for the development.
7. Although Schedule 2, Part 3, Class C of the GPDO permits, subject to the consideration of a number of impacts, the change of use from a use falling within Class A1 (shops) to Class A3 (restaurants and cafés), there are no provisions within the GPDO that provide for the change of use from a use falling within Class A1 (shops) to Class A5 (hot food takeaway) to be undertaken as permitted development.
8. The application as submitted provides for a combined use of the appeal property as a Restaurant (Class A3) and a hot food takeaway (Class A5). As the GPDO makes no provisions for a change of use from a shop to a hot food takeaway then it follows that the application, as submitted for the combined use, cannot benefit from permitted development rights under Schedule 2, Part 3, Class C.

Sustainability of Shopping Area

9. Schedule 2, Part 3, Class C, paragraph C.2 (1) (f) (i) and (ii) of the GPDO requires consideration whether it is undesirable for the building to change use to a use falling within Class A3 due to the impact on the adequate provision of services provided by Class A1 (shops) or Class A2 (financial and professional services) and the sustainability of the shopping area. The Council consider that the loss of the retail unit would erode the retail function of the Secondary Shopping Area thereby harming the vitality and viability of the centre.
10. The Council has identified that the appeal property is located within the Secondary Shopping Area of Northwood Hills town centre. Although I have no evidence to define the extent of the Primary or Secondary Shopping Area, it appears to me that the focus of retail activity in the area is concentrated on both sides of Joel Street terminating at its northern end in the vicinity of the junction with Pinner Road.
11. The appeal property is part of a small cluster of four units occupying a prominent position at the junction of Joel Street with Pinner Road that is currently used for the retail sale of Indian sweets. The adjacent units comprise a vehicle tyre fitting garage, a Herbal Lounge and a Café which is located in a

large corner unit providing frontage onto both Joel Street and Pinner Road. Residential properties are located to the east and a Library located on the opposite side of the road. Although this part of Pinner Road provides a limited retail function, with the appeal property being the sole Class A1 use on this part of the street, in character it forms the defined beginning and end of the retail focus of this part of Northwood Hills which is concentrated on Joel Street.

12. The Council has referred to a conflict with Saved Policy S12 of the Hillingdon Unitary Development Plan – Saved Policies (2007) (UDP) and Policy 2.15 of the London Plan (2016). These policies, amongst other things, indicate that planning permission will be granted for Class A3 Uses where the proposed use will not result in a separation of Class A1 uses or a concentration of non-retail uses which might harm the viability or vitality of the centre and that the remaining facilities are adequate to accord with the function of the shopping area. These policies make no reference to the acceptability or otherwise of Class A5 uses.
13. The supporting text to Policy S12 indicates that Class A1 shops should remain the predominant use in secondary areas and the Council will expect at least 50% of the frontage to be in Class A1 use. It also identifies a need to prevent avoidable interruptions to the frontage by dispersing service uses such as restaurants and banks within shopping areas and limiting the length of continuous frontage in non-retail use. As a guideline, it will normally seek to prevent a separation or an increase in the separation of Class A1 units of more than about 12m which that is broadly the width of two typical shop fronts.
14. The Council indicate that the 2015 Shopping Survey showed that the share of A1 uses, including vacant uses, is 45.8% of the frontages in the Secondary Shopping Area. I have no other evidence to suggest that the results of the Shopping Survey may be incorrect. The proposed change of use would further reduce the percentage of A1 uses in the Secondary Shopping Area and would result in the elimination of the remaining Class A1 use on this part of Pinner Road.
15. I therefore conclude that the proposed change of use would result in a concentration of non-retail uses on this part of the Pinner Road frontage which would compromise the sustainability of the secondary shopping area as a whole thereby causing demonstrable harm to the vitality and viability of the town centre. As such, the proposal would be contrary to Policy S12 of the UDP and Policy 2.15 of the London Plan.

Conclusion

16. I have concluded that the permitted development rights conferred by Schedule 2, Part 3, Class C of GPDO cannot apply in this case. In addition the proposed change of use would compromise the sustainability of the Secondary Shopping Area. Therefore, for the above reasons and taking all other matters raised into account, I conclude that the appeal should be dismissed.

Stephen Normington

INSPECTOR