



Appeal Decision

Site visit made on 30 July 2019

by P Wookey BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20th September 2019

Appeal Ref: APP/N5660/W/19/3229083

Flat 3, 94A Knight's Hill, London, SE27 0JL

- 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 (as amended).
 - The appeal is made by PH Property Assets Limited against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 18/04715/P3M, dated 30 October 2018, was refused by notice dated 20 December 2018.
 - The development proposed is described as A1 shop.
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Decision

1. The appeal is dismissed.

Background

2. The application seeks prior approval for the change of use of the ground floor of No 94 Knight's Hill (No 94), a three-storey property, from retail use to use as a residential self-contained flat. It is located close to the junction with St. Julians Farm Road and close to a parade of retail units which fall within the West Norwood District Centre. Adjacent uses along Knight's Hill are a café, store and residential dwellings. Opposite are commercial uses and adjacent streets to the rear of the property are mainly in residential use.
3. The Council has concerns that the development proposed would result in the loss of an active retail frontage to the Norwood District Centre and that there is no evidence that the floorspace has been actively marketed for A-use services. Also, the development proposed fails to indicate details of cycle storage and there is an absence of a Section 106 Agreement removing the rights of future occupiers from obtaining on-street parking permits.

Main Issue

4. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

Reasons

5. Class M of the GPDO permits a change of use from a use falling within Class A1 (shops), Class A2 (financial and professional services), and specified sui generis uses to a use falling within Class C3 (dwelling houses), and building

operations reasonably necessary to convert the building to such a use subject to a range of criteria. Specified sui generis uses include a betting office, a pay day loan shop or laundrette, or a mixed use of any of the above with residential.

6. There is no dispute with regards M.1 (a)-(g) of the GPDO.
7. The Conditions of Class M.2 (1) states that where the development proposed is development under Class M (a), development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required on a number of criteria which are set out in (a)-(e). In this case criteria (b), (c) and (e) are not in dispute.
8. Criterion M.2 (1) (a) requires the Council to determine whether prior approval is required in respect of the transport and highways impacts of the development. I note the Council has stated that the appeal site has a PTAL rating of 5. The Council states that the CPZ, which is not defined, and its vehicle parking restrictions are being extended, however, it acknowledges that it is currently not located within a CPZ and therefore such restrictions would not apply at present. Notwithstanding restrictions would not apply, I acknowledge the appellants willingness to enter into a Section 106 Agreement, which would remove the rights of future occupiers from obtaining on-street parking permits and providing car club membership to the future occupiers of the proposed self-contained flat. However, the Unilateral Undertaking submitted as evidence is not complete and therefore there is no certainty that this obligation would be entered into. As a result, the development proposed would put additional stress for on street parking in the surrounding streets and have an adverse impact on the local transport network.
9. The Council states that the development proposed fails to provide adequate cycle storage, which the appellant states is not a matter set out as a prior approval requirement in M2(1). Notwithstanding, the Council's requirement is disputed, the appellant has submitted evidence of the Council's policies which clearly indicates that a sustainable pattern of development which reduces the dependency on the private car is being promoted by the Council and that this, including cycling, should be reflected in development proposals. It is therefore a matter related to the transport and highways impact of the development proposed and is relevant in respect of M2(1)(a). Whilst the appellant states that the appeal site has sufficient area to provide such storage, the application plans do not demonstrate how cycle storage provision would be provided.
10. I conclude that in relation to transport and highways matters, the lack of a completed UU and the lack of adequate cycle storage results in the development proposed not complying with the provisions under Class M2 (1) (a) of the GPDO.
11. Criterion M.2 (1) (d) requires consideration of whether it would be undesirable for the use of the unit to change to residential, including with regard to adequate provision of shops and financial and professional services and the sustainability of the shopping area.
12. Whilst the appellant states that the appeal site is separated from the main shopping area by a residential terrace and this section of the shopping area has

a fragmented retail frontage, I noted that there was little evidence of other vacant units in the adjacent parade of shops on Knight's Hill during my site visit. Moreover, No 94 did not appear to be divorced from the rest of the shopping area which had active shop and professional services ground floor uses nearby and as a result it does play an important role in the offer West Norwood District Centre

13. I have reviewed the limited amount of evidence submitted by the appellant in respect of the marketing of the retail unit. There is no indication that the retail unit has been marketed extensively since the agent was instructed in November 2017. Whilst the appellant states that the unit had been unsuccessfully marketed for nearly twelve months, there is no evidence to demonstrate the marketing methods used or any marketing reports provided by the agent appointed.
14. Even though the appellant states that it has remained vacant for twelve months, I am not persuaded on the evidence before me that the unit has been actively marketed. In the absence of such evidence the loss of the retail unit would have an adverse impact on the shopping area and would not meet the provisions of Class M 2(1)(d) of the GPDO.

Conclusion

15. Consequently, the development proposed would not be wholly compliant with the Class M of the GPDO. It would be a development for which an application for planning permission is required which would be a matter for the local planning authority to consider in the first instance and cannot be addressed under the prior approval provisions set out in the GPDO.
16. For the reasons given above, the appeal is dismissed.

Paul Wookey

INSPECTOR