



Appeal Decision

Site visit made on 17 September 2019

by Graham Wyatt BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14th October 2019

Appeal Ref: APP/X0415/W/19/3232838

129 Station Road, Amersham, Buckinghamshire HP7 0AH

- 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 & Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Harrow Propco Limited against the decision of Chiltern District Council.
 - The application Ref PL/19/1117/PNR, dated 29 March 2019, was refused by notice dated 7 June 2019.
 - The development proposed is described as the "change of use from A1 retail to C3 dwelling houses on the ground floor at 129 Station Road, Amersham HP7 0AH"
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Decision

1. The appeal is dismissed.

Main Issue

2. Schedule 2, Part 3, Class M of the Town & Country Planning (General Permitted Development)(England) Order 2015 (as amended) (the GPDO) provides for a permitted development right for the change of use of a building falling within, amongst other uses, class A1 (shops) to dwelling houses. This is subject to limitations and conditions as set out in subsequent paragraphs of Class M of the GPDO. The application that led to this appeal sought prior approval to determine whether the proposal was eligible for the permitted development right and whether or not the limitations and conditions of Class M were met.
3. The Council's reason for refusing the application indicate that requirements of Class M are met in relation to transport and highways impact, flooding, and the design and external appearance of the building. Matters relating to potential contamination at the site could be controlled through a suitably worded condition.
4. Thus, the main issue is whether it would be undesirable for the Class A1 (shops) unit to change to a use falling within class C3 (dwelling houses) having regard to the provisions of paragraph M.2(1)(d)(i) of Schedule 2, Part 3, Class M of the GPDO.

Reasons

5. The appeal site comprises part of a terrace of four commercial units and is a former art supplies shop on the ground floor that is now vacant. The Council's delegated report confirms that the first and second floor have planning permission

for a change of use to two residential units¹. The appeal building is mid-terrace and constructed over three floors, similar to the adjoining mid-terrace property, with either end of the terrace being single storey. The site lies within around a minute's walk of Amersham Underground Station.

6. The requirement under Paragraph M.2(1)(d)(i) of the GPDO suggests that a change to residential use may be undesirable because it would impact on the adequate provision of services in a particular location. However, the GPDO goes on to state that change should only be resisted where there is a reasonable prospect of the building being used to provide services that would fall within A1 (shops) or A2 (financial and professional services).
7. The appellant's "Retail Market Assessment"² (the RMA) states that the retail unit is understood to have been vacant since October 2018. Although the RMA considers the potential market for A1 and A2 uses, the site's proximity to other retail users such as Tesco Express to the north of the site, its lack of parking and the anticipated footfall in the vicinity of the site, it does not present any evidence in the form of a marketing exercise undertaken at a reasonable price to demonstrate that there is no interest in the building as an A1 or A2 unit.
8. While I acknowledge that the GPDO does not provide any definitions of what would constitute a reasonable prospect of a building being used and that the appellant states that the size of the unit is very small when compared to that within Amersham District Centre, it is nonetheless close to residential properties and has historically served as a retail unit. Thus, notwithstanding the site's proximity to a range of other retail uses, there is a lack of robust evidence that such a unit cannot attract a potential tenant as a marketing exercise has not been undertaken. Consequently, in the absence of any evidence to the contrary, the proposal therefore fails to meet the test as set out in paragraph M.2(1)(d)(i) of the GPDO.

Conclusion

9. Overall, I conclude that the proposal would not comply with the limitations and restrictions specified as being applicable to the proposed development under paragraph M.2(1)(d)(i) of the GPDO. Accordingly, I therefore conclude that it could not benefit from deemed permission and the appeal should be dismissed.

Graham Wyatt

INSPECTOR

¹ PL/19/1118/PNO dated 7 June 2019

² Retail Market Assessment, Litmus dated June 2019