



Appeal Decision

Site visit made on 25 September 2019

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 23 October 2019

Appeal Ref: APP/A3655/W/19/3229881

23 High Street, Woking GU21 6BW

- 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 GPDO).
 - The appeal is made by Mr Y Levy of Moishe and Esther Itzinger Foundation Ltd against the decision of Woking Borough Council.
 - The application Ref PLAN/2018/1121, dated 9 October 2018, was refused by notice dated 30 November 2018.
 - The development proposed is the change of use from A1 to C3.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are: a) Whether there is a reasonable prospect of the existing building being used for A1 purposes; and b) Whether it is undesirable for a change of use from A1 to C3 to occur in the front part of the ground floor of the building, having regard to the relevant tests set out in the GPDO.

Reasons

Permitted Development

3. Schedule 2, Part 3, Class M of the GPDO provides for a permitted development right for the change of use of a building falling within use class A1 (shops) to dwelling houses (C3). This is subject to limitations and conditions, as set out in the subsequent paragraphs of Class M of the GPDO. Among the considerations which apply are the likelihood of re-use for A1 or A2 uses and whether the change of use to C3 would be undesirable.

Reasonable prospect of existing building being used for A1 purposes

4. The unit falls within a parade of commercial shops close to Woking railway station. Traffic on the road is restricted with bollards controlling access such that it is not accessible to all traffic. At the time of my visit there was an active level of footfall past the site and shops in the vicinity appeared to be active.
5. Part of the ground floor of the property to the rear was subject to a prior approval for change of use from A1 to C3. A separate door has been created accessing flats 1 to 11 though this equates to the number of flats referred to by

the Council as having been consented on the upper floors and as such it is unclear whether the conversion of the rear part of the ground floor has actually taken place in accordance with the earlier prior approval¹.

6. Previously the building was used between 2014 and 2016 by the RSPCA as a charity shop. It has been vacant since that time. The appellant says that this coincided with the change to the traffic management outside the shop which removed the ability to park outside. At the time of my visit there were five vacant shops in this row with twelve units operating. On the adjacent terrace three out of eight units were in active use which indicates a vacancy rate of around 30% on these two terraces. The active premises include a mix of retail shops, a café and financial and professional service units. The agent advises that the letting agent considered that as commercial interest was very weak it could no longer be viable for them to market the property and suggested that the shop size was reduced.
7. I have little evidence that the unit has been marketed for any other alternative use and no evidence of marketing post April 2019 when the approval to reduce the size of the unit was issued. Nor do I have evidence of how extensive or at what level the original marketing exercise had been undertaken other than it had been over a 30-month period up to February 2018, which in any event significantly predates the making of the appeal application.
8. I note that there is a great deal of redevelopment activity in the vicinity of the site. Most prominently of which is the redevelopment as referred to by the Council involving a large number of apartments (around 400). This will inevitably alter the footfall past this site given its position on the route to the station. I have also had regard to the representation made by a local letting agent on the same terrace who advises that many interested parties have approached them expressing interest in the ground floor appeal premises. Taking all these factors together I conclude that there remains a reasonable prospect of the ground floor unit being used for A1 purposes.
9. In reaching this view I have taken into account that there are vacant shops in the vicinity of the site and have been so for some time however the location of the site in relation to Woking railway station together with the extent of redevelopment underway in the area are both material considerations which influence the prospect of reuse of these premises for A1 purposes or for any permitted change from that use. I conclude therefore that there is a reasonable prospect of the building being used to provide either an A1 or A2 use.

Whether a change of use would be undesirable

10. This requires an assessment of whether it is undesirable for the change of use to occur, having regard to the impact on the adequate provision of shops of the sort that may be provided by a building falling within Class A1.
11. The site is located very close to the town centre within a Primary Shopping Area and a Secondary Shopping Frontage, as defined by the Development Plan. In such a location the loss of a commercial use, and an active shopfront, at ground floor level would be likely to harm the viability and vitality, and hence sustainability of the key shopping area. Loss of retail units in this location would inevitably erode the functionality and competitiveness of the shopping

¹ PLAN/2019/0171 - April 2019

area. The protection of units within primary or secondary frontages is a legitimate concern and in this regard the change of use would undermine the provisions of the development plan.

Other Matters

12. Whilst the Council is concerned that the loss of this frontage unit may make further changes to other units difficult to resist in the future, I must make my decision on the basis of the evidence relating to this unit.
13. The appellant has emphasised that the owner of the building is a not for profit charitable foundation however this is not a criterion which is relevant to the considerations in this case.

Conclusion

14. For the reasons given, the proposal does not comply with the conditions, limitations or restrictions applicable under part M of the GPDO. Consequently, the appeal fails.

Janet Wilson

INSPECTOR