



Appeal Decision

Site visit made on 8 October 2019

by Kate Mansell BA (Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 November 2019

Appeal Ref: APP/E5330/W/19/3233229

Ground Floor, 60 Charlton Church Lane, Charlton, London SE7 7AB

- 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 AAA Premier Investments Ltd against the decision of Royal Borough of Greenwich Council.
 - The application Ref 19/1698/PN2, dated 10 May 2019, was refused by notice dated 8 July 2019.
 - The development proposed is prior approval for the change of use of ground floor from Class A1 shop to form 2 apartments (Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of development was not included on the application form, which referred to the covering letter attached to the application. This described the proposal as a change of use of ground floor from Class A1 shop to form 2 apartments (Class C3). I have used this description in this decision.
3. In the first reason for refusal, the decision notice cites Class M(1) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) in respect of the matter of the developer's contact address. The Council's Officer Report, upon which the appellant has had the opportunity to comment, sets out that the relevant section is Class M.2(1). The appellant's prior notification letter also refers to paragraph M.2 in this regard. Accordingly, I am satisfied that no parties would be prejudiced by my reference in this decision to Class M.2(1) rather than Class M(1).
4. The Council has drawn my attention to a development plan policy it considers to be relevant to this appeal. It cites Policy TC7 of the Royal Greenwich Local Plan: Core Strategy with Detailed Policies (2014) (LPCS) on the decision notice. However, the principle of development is established through the grant of permission by the Order. Whilst the development plan policy may be relevant to the prior approval insofar as it relates to the main issue, in my determination of this appeal, it is not, of itself, decisive.

Background

5. Class M of Schedule 2, Part 3, of the GPDO permits a change of use from a use falling within Class A1 (shops) (amongst other specified uses) to a use falling within Class C3 (dwellinghouses), as well as building operations reasonably

necessary to convert the building to such a use, subject to a number of criteria being met.

6. There is no dispute between the parties that the proposal would comply with the criteria set out in Class M.1(a)-(g) and I have no evidence to lead me to a different conclusion. However, for development to be permitted by Class M, it is subject to a series of conditions that before commencement, an application must be made to determine whether prior approval is required in respect of five matters referred to in (a)-(e) of paragraph M.2(1). Four of these, which relate to the transport and highway impacts of the development, contamination risk, flood risk and design are not in contention. M.2(1) also states that the provisions of paragraph W (prior approval) of Part 3 apply.
7. The matters in dispute relate to the procedures for applications for prior approval set out at paragraph W and also, to the specific requirement set out in criterion (d) of paragraph M.2(1) of the GPDO. This states that it is for the local planning authority to determine whether "it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use." These impacts relate either to (i) the adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) (as relevant to this case), 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.
8. Both parties agree that the proposal would comply with M.2(1)(d)(i), as there are various other Class A1(shops) and A2 (financial and professional) units along Charlton Church Lane as well as a larger retail park nearby on Woolwich Road, which I observed on my visit. Consequently, the loss of a single unit would not result in inadequate provision of services of the sort that may be provided by the current use of the premises as a retail unit. I have no reason to come to an alternative view.

Main Issues

9. In light of the above, I consider that the main issues are:
 - Whether the proposal would be permitted development having regard to Class M.2(1) with particular regard to the procedural requirement of paragraph W(2)(c) of Schedule 2, Part 3 of the GPDO to provide the developer's contact address; and
 - Having regard to Class M.2(1)(d)(ii), whether or not it would be undesirable for the building to change to a use falling within Class C3 (dwellinghouse), having regard to the effect on the sustainability of the shopping area.

Reasons

Procedural requirements of paragraph W(2)(c)

10. Paragraph W of Schedule 2, Part 3 of the GPDO establishes the procedure for prior approval under Part 3 and the provisions that must be complied with. Part (2) specifically sets out five categories of information that must accompany the relevant prior approval application. There is no dispute between the parties that, as relevant to the appeal site, the application complied with parts (a) a written description of the proposal, (b) a plan indicating the site and

the proposed development and (d) the developer's email address. However, part (c) requires the developer's contact address.

11. No contact address was provided for the developer on the application form. Apart from the developer's name, this section was left blank and did not indicate that the given address should be care of the planning agent. Nor was the address given on the letter accompanying the application, which also stated only the developer's name.
12. I appreciate that the application was validated by the Council and the applicant's name could be clearly identified from the information submitted. Furthermore, whilst the developer's address has been provided in the appellant's statement as part of the appeal documents before me, Paragraph W is clear that it is the application that must be accompanied by these details and it was not.
13. I therefore conclude that the proposal would not be permitted development as the application was not accompanied by the developer's contact address in accordance with the procedural requirement of paragraph W(2)(c) of Schedule 2, Part 3 of the GPDO. It thereby fails to comply with Part M.2(1).

Whether or not the change of use would be undesirable

14. Situated on the west side of Charlton Church Lane, the appeal premises at No 60 was last used as a retail shop (A1) selling musical instruments. It comprises the ground floor of a mid-terrace property, forming part of a longer parade (Nos 44 and 46-70). Together with further units at Nos 10-12, 20-22 and 27-47, which span both sides of the road, it constitutes the Charlton Church Lane Neighbourhood Parade (NP). The upper floors appear to be typically in residential use whilst the NP is interspersed with terraced houses.
15. The GPDO does not define a 'key shopping area', nor is it specified within the National Planning Policy Framework, which references primary shopping areas. However, from my observations on site, the neighbourhood parade in its entirety consists of 27 units providing a mix of services, including within Class A1 (retail), A2 (financial and professional), A3 (restaurants and cafes) and A5 (hot food take-aways). Given the proximity to dwellinghouses both along Charlton Church Lane and the wider residential catchment in the surrounding area, it is reasonable to assume that it makes a relevant contribution to the shopping/service needs of the community that it serves.
16. Moreover, whilst the Council's policies are not decisive in respect of the proposal, the neighbourhood parade is deemed worthy of protection by Policy TC7 of the Royal Greenwich LPCS (2014). This policy seeks, in particular, to resist the loss of Class A1 units unless the proposal would reinforce the function of the parade in serving the day-to-day needs of local residents.
17. Furthermore, even though the appeal site does not fall within either primary or secondary frontage, the supporting text acknowledges the importance of neighbourhood parades to providing shops and facilities within walking distance of residential areas, particularly benefitting those without cars or with constrained mobility. Taken together, these factors combine to support my view that the appeal site does form part of a key shopping area. Consequently, the test under M.2(1)(d)(ii) is relevant in this instance.

18. Both parties have cited the Council's survey of the NP, dating back to 2017. Of the 27 units within the entire NP, it identifies 3 vacant units and 1 unit that is in residential use at No 66. Even acknowledging that a vacant unit could detract from the vitality and viability of the area, this level of vacancy does not, in my view, indicate an NP that is in significant decline.
19. Moreover, on my site visit, I observed that within the small parade of which the appeal site is a part (Nos 44-70, of which 68-70 are combined), 2 of the 13 units at Nos 54 and 66 already had a non-active frontage at ground floor level. Even if a specialist music retailer is not a key service for local residents, the retail use is consistent with the role and function of the NP. The introduction of another ground floor residential premises, sat between other commercial uses, would detract from this in serving the day to day needs of local residents. It would be likely to make the area less commercially vibrant.
20. I recognise that No 60 has been vacant for approximately 2 years. The appellant has also marketed the premises for approximately 18 months. and in that time, obtained two offers for a retail shop and a beauty salon. However, I have nothing before me to explain why neither tenant decided to complete, nor whether the rent sought was equitable to others within the area. There is also nothing to indicate that the retail sales floor being below the entrance threshold would impact upon its attractiveness for this purpose. On the evidence before me, I am therefore not persuaded that there is no reasonable prospect of a retail use coming forward.
21. In this context, even in the absence of an identified shortage of retail floorspace in the locality, the introduction of a residential use at ground floor level at the appeal premises would, nonetheless, be discordant with the predominantly retail/commercial frontage of the NP. It would further fragment the parade and in this respect, I concur with the Council that it would impact upon the ability of other units within the NP to attract customers, with a consequent effect on their viability and vitality. It would therefore undermine the role of the NP as a key shopping area.
22. I appreciate that No 66 was allowed on appeal¹. However, that premises was determined to be an A2 use. Even if such uses are interchangeable having regard to the GPDO, an A2 use is not specifically referred to within Policy TC7 and the Inspector in that case concluded that the loss of an A2 use would not significantly impact on the function of the NP. For this reason, I do not find it directly comparable to the appeal proposal, which I have assessed on its individual merits.
23. Taking all these factors into account, I conclude that the proposal would have a harmful effect on the sustainability of the key shopping area. It would, as a result, be undesirable for the building to change to a use falling within Class C3 (dwellinghouse) in the form of two apartments. The proposal would therefore fail to satisfy the conditions of a prior approval under Class M.2(1)(d)(ii) of the GPDO.

¹ Appeal Ref: APP/5330/W/14/3000281

Conclusion

24. For the reasons given above, and having considered all other matters raised, I conclude that the appeal should be dismissed.

Kate Mansell

INSPECTOR