



Appeal Decision

Site visit made on 17 October 2019

by Laura Renaudon LLM LARTPI Solicitor

an Inspector appointed by the Secretary of State

Decision date: 13 November 2019

Appeal Ref: APP/C5690/W/19/3234088
173 Lewisham Way, London SE4 1UY

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr A Bajwa against the decision of the Council of the London Borough of Lewisham.
 - The application Ref DC/19/112574, dated 3 April 2019, was refused by notice dated 18 July 2019.
 - The development proposed is the change of use of the rear of the ground floor shop from retail (Class A1) to a self contained flat (Use Class C3).
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue arising in the appeal is 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 on adequate provision of services of the sort that may be provided by a building falling within the present Class A1 (shops), where there is a reasonable prospect of the building being used to provide such services.

Reasons

3. Paragraph W(10) of Part 3 of Schedule 2 to the Town and Country Planning (General Permitted Development) (England) Order 2015 ('the Order') provides that regard must be had to the National Planning Policy Framework ('the Framework') when determining an application for prior approval. Such an application may be refused where any conditions applicable to the relevant permitted development right are not complied with (or there is insufficient information to establish the matter): Paragraph W(3). Although not a consideration required by the Order, the development plan may also be material to the matters for which prior approval is required.
4. The proposal concerns the conversion of part of a shop comprised in a local shopping parade to a residential flat, which benefits in principle from the permission conferred by Paragraph M of Part 3 of Schedule 2 to the Order. The relevant condition, found in Paragraph M.2(2), is whether it is undesirable for the change of use to take place because of the impact of the change on (in this case) retail service provision, where there is a reasonable prospect of the building being used to provide such services.

5. Taking the latter point first, the former butcher's shop appears to have ceased trading in around 2017. However, no evidence has been provided that the building does not have reasonable prospects of being used to provide retail services in the future. No marketing exercise appears to have taken place. The premises lie in a local shopping parade on Lewisham Way, and it appears reasonable to suppose that the retail use could be resumed.
6. As to whether it is undesirable for the change of use to take place, the Framework seeks the protection of 'town centre' uses, which would not include this local shopping parade. However it also seeks to plan positively for community facilities such as local shops, in order to provide the social, recreational and cultural facilities and services needed by the community. Local planning policies also seek to protect local shopping facilities from redevelopment where there is an economic demand for such services, and require reasonable attempts to show that the shop is no longer viable before a change of use would be permitted.
7. Here, the proposal is to convert part only of the shop, retaining some 23 sqm for retail use. It has not been demonstrated whether a shop of such reduced size would be a viable proposition, or whether it would meet retail demand in the area. On my site visit I saw that Lewisham Way has an active local shopping parade, although with some vacant premises. No analysis has been provided concerning the economic demand for retail provision in the area, and accordingly I am unable to conclude that the proposed change of use would not be undesirable.
8. Returning to the provisions of the Order, I consider that there is insufficient evidence before me to conclude either that there is no reasonable prospect of a retail use continuing over the whole ground floor of the appeal premises, or that the proposed change of use would not be undesirable because of the impact of the change on retail service provision. Therefore, the appeal is dismissed.

Laura Renaudon

INSPECTOR