



Appeal Decision

Site visit made on 12 November 2019

by S Harley BSc(Hons) MPhil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 19th November 2019

Appeal Ref: APP/R5510/W/19/3235623

Carter House, Colham Mill Road, West Drayton UB7 7AE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr S Kumar against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 2963/APP/2019/1830, dated 31 May 2019, was refused by notice dated 26 July 2019.
 - The development proposed, as described on the planning application form, is change of use of first floor C3 flats to A3 restaurant forming part of the ground floor A3 restaurant use.
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Decision

1. The appeal is allowed and planning permission is granted for change of use of first floor C3 flats to A3 restaurant forming part of the ground floor A3 restaurant use at Carter House, Colham Mill Road, West Drayton UB7 7AE in accordance with the terms of the application Ref 2963/APP/2019/1830, dated 31 May 2019 and the plans submitted with it, and subject to the conditions set out in the attached schedule.

Preliminary Matters

2. The description of development is slightly different on the decision notice, but I have used the description from the planning application form as that more fully describes the proposal.
3. The emerging Hillingdon Local Plan: Part Two – Development Management Policies with Modifications 2019 (the emerging Plan) is at an advanced stage and so its Policies have weight in this appeal.

Main Issue

4. The main issue is whether or not the proposal would result in an unacceptable loss of residential units.

Reasons

5. The appeal proposal relates to the first floor of a building which has a restaurant/café at ground floor. The use of the first floor changed from Class B1(a) offices to three studio self-contained flats Class C3 (dwelling houses)¹ under permitted development rights² following the prior approval process

¹ The Town and Country Planning (Use Classes) Order 1987 as amended

² Under the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended)

- planning Ref 2963/APP/2015/927. For that proposal the only matters that could be taken into account related to transport and highways impacts or any contamination and flooding risks on the site.
6. Policy H3 of the London Borough of Hillingdon Unitary Development Plan: Part Two - Saved Policies 2012 (the UDP) and Policy 3.14 B of the London Plan 2016 (the London Plan) seek to resist the loss of residential accommodation unless it is replaced within the boundary of the site. Policy DMH 1 of the emerging Plan similarly safeguards against loss of existing housing. The supporting text indicates a particular need for three bedroom properties and supports the combination of separate flats to create family sized housing. The proposal would result in the loss of three self-contained studio flats which would not be replaced within the site boundary. Accordingly the proposal would conflict with Policy H3 of the UDP; Policy DMH 1 of the emerging Plan and Policy 3.14 B of the London Plan.
 7. The appeal site is tightly confined, essentially comprising the existing building and adjacent car parking area. The three studio flats are arranged around a narrow corridor which also serves a small office/store for the restaurant/café below. They have Gross Internal Areas of 19m²; 16m² and 17m² all of which are significantly below the 37 m² sought by the Technical Housing Standards – Nationally Described Space Standard 2015 (the NDSS) for one bedroom one person dwellings with shower rather than bathroom. Accordingly the accommodation is cramped and provides less than satisfactory living conditions for residents.
 8. The London Plan forms part of the development plan for this appeal and the NDSS were adopted by the 2016 Minor Alterations to the London Plan (the MALP). Policy 3.5 of the London Plan requires housing developments to be of the highest quality and applies the NDSS to all new housing. Further guidance on the policy is provided in the Mayor of London's Housing Supplementary Planning Guidance 2016 (the Housing SPD) and Standard 24 confirms that all new dwellings should meet the NDSS. In failing to meet the standards the existing studio flats provide unsatisfactory internal living accommodation for existing and future residents; nor is there any satisfactory external amenity space.
 9. The appellant considers that all the studio flats together would only provide sufficient floor space to meet the standard for a one bedroom two person dwelling. Adding in the corridor space would at best provide floor space to meet the standard for a two bedroom three person dwelling. In either event there would be no satisfactory private external amenity space.
 10. The appeal site is in a prominent location on the corner of Colham Mill Road close to its junction with Station Road. It marks a transition point between a predominantly residential environment along Colham Mill Road and the mixed uses along the busier and more vibrant Station Road. The ground floor is in beneficial use as a restaurant/café and the proposal would enable the expansion of the business.
 11. Planning Policies can pull in different directions. The loss of the three studio flats without replacement within the site boundary would be in clear conflict with Policy H3 of the UDP; Policy 3.14 B of the London Plan and Policy DMH 1 of the emerging Plan which together seek to retain residential units against the context of a continuing need across London for dwellings. However, the

existing studio flats fall well below the standards for providing the satisfactory living conditions for residents and accordingly would conflict with Policy 3.5 of the London Plan, the MALP and the NDSS. Nor would satisfactory external amenity space be available. I acknowledge that the studio flats could be combined to provide a larger unit but it seems unlikely that a single unit as described above would provide an attractive investment. On balance I conclude that, in this case, the proposal would not result in an unacceptable loss of residential units such that the proposed change of use should be resisted.

Conditions

12. I have considered the Council's suggested conditions and where appropriate amended the wording to more closely align with the Planning Practice Guidance.
13. As well as the standard condition specifying the time limits for commencement of development compliance with the approved plans is necessary to provide certainty. Control of deliveries and collections; hours of operation; and extraction and ventilation details; are necessary to protect the living conditions of nearby residents. A scheme for waste disposal is necessary in the interests of public health and safety. Provision of parking and cycle storage is necessary to ensure adequate facilities are available.
14. As it would appear that no external works are proposed that would affect the adjacent Network Rail land it is not necessary for conditions safeguarding that land to be imposed.

Conclusion

15. For the reasons set above the appeal is allowed.

S Harley

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2019-13CMR-1 Rev 1.0 and 2019-13CMR-2 Rev 1.0.
- 3) The use hereby permitted shall not commence until equipment to control the emission of noise, odour, fumes and vibration from the premises has been installed in accordance with a scheme first submitted to and approved in writing by the Local Planning Authority. The equipment shall be installed in accordance with the approved scheme and shall thereafter be operated and maintained in accordance with that approval and retained for so long as the use continues. The equipment shall be maintained in good working order in accordance with the manufacturer's instructions of which a maintenance log should be kept on site for inspection for so long as the use continues.
- 4) The use hereby permitted shall not commence until a scheme detailing the method of disposal, storage and collection of litter and waste materials, generated by the business and/or discarded by patrons, has been submitted to and approved in writing by the Local Planning Authority. The details shall include a description of the facilities to be provided and the methods for collection of litter within and in the vicinity of the premises. The approved scheme shall be implemented in full thereafter.
- 5) The premises shall only be used for the preparation, sale of food and drink and clearing up between the hours of 08:00 and 23:30 Mondays - Saturdays and 1000 to 1800 Sundays, Public or Bank Holidays. There shall be no staff allowed on the premises outside these hours.
- 6) The premises shall not be used for deliveries and collections, including waste collections other than between the hours of 08:00 and 18:00, Mondays to Fridays, 08:00 to 13:00 Saturdays and not at all on Sundays and Bank and Public Holidays.
- 7) The use hereby permitted shall not commence until the vehicle parking and cycle storage shown on the approved Plan 2019-13CMR-1 Rev 1.0 have been made available. The approved vehicle parking and cycle storage shall be available at all times the restaurant use takes place.

End of Schedule