



Appeal Decision

Site visit made on 4 November 2019

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 20 December 2019

Appeal Ref: APP/H5390/W/19/3229967
58 Boscombe Road, London W12 9HU

- 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 BMR London against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2019/00838/PD56, dated 18 March 2019, was refused by notice dated 15 May 2019.
 - The development proposed is the change of use of the ground floor from retail (Class A1) into a one bedroom self-contained flat (Class C3).
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I am aware of the other proposal on this site which is the subject of a separate decision¹.
3. The application was made under Class M of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) to change the use of the ground floor from retail to a single flat. The Council accept that the proposal meets the requirements of paragraph M.1 and the proposal should be the subject to a determination as to whether the prior approval is required.
4. Paragraph M.2 sets out 5 prior approval matters and the Council has determined that, in terms of paragraph M.2(1)(d)(i), in summary, it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) because of the impact of the change of use on the adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops), where there is a reasonable prospect of the building being used to provide such services. The Council determined that prior approval would be required and refused the application.

Main Issue

5. In the light of the above, the main issue is whether it is undesirable for the shop to be converted to a flat, having regard to the impact of the change of use on the adequate provision of shops in the locality and whether there is a reasonable prospect of the building being used to provide such services.

¹ APP/H5390/W/19/3236037

Reasons

6. Policy TLC4 of the Hammersmith and Fulham Local Plan (February 2018) (the Local Plan) sets out the policy approach in respect of small non designated parades, clusters and corner shops. The Policy indicates that outside town centres, key local centres, neighbourhood parades and satellite parades, the Council will seek to retain shops and other local services to meet local needs. The policy allows for residential use to be permitted, except where this would result in a demonstrable shortage of Class A1 uses in the locality.
7. In terms of corner shops, the policy indicates that they are important for meeting local needs and will be protected for continued retail use (Class A1). Furthermore, the policy indicates that changes of use of corner shops from retail use will not be permitted where there is a shortage of alternative shopping (where, in summary, other shopping facilities are not within 400m).
8. Schedule 2, Part 3, Paragraph W.(10).(b) of the GPDO states that the local planning authority must, when determining an application² have regard to the National Planning Policy Framework (the Framework), so far as relevant to the subject matter of the prior approval, as if the application were a planning application.
9. The Framework, under Section 8 regarding promoting Healthy and Safe Communities, identifies local shops as a community facility³, requires decisions to guard against the unnecessary loss of valued facilities and services, and to ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.
10. In this case, the shop is located amongst a series of streets which are predominantly made up of residential flats and houses, with an adjoining business building. As far as I am aware from the evidence and my site visit, this is the only shop immediately available amongst this housing to serve these nearby properties.
11. I have taken into account, the Retail Assessment – 58 Boscombe Road Final Report (March 2019) and, in particular, the distribution and type of existing retail premises, the additional units in the pipeline and the distance and walking time from the site to the shopping facilities in the Uxbridge, Goldhawk and Askew Roads. At my visit I walked to these roads from the site. I have examined the details in figure 2 in the Retail Assessment Report which shows that some shops in Uxbridge Road are within 400m of the site and also a small section of Goldhawk Road. In my view, the walk to Askew Road and to Goldhawk Road was a fair distance and therefore not especially suited for convenient day-to-day purchasing of shopping items. The walk to the parade of shops at Uxbridge Road was closer and was within the boundary of the 400m distance, however, this would still be a reasonable distance and not be readily convenient in all circumstances, particularly for some elderly persons or for those less ambulant.
12. The shop at the site is reasonably equidistant from the three roads and I consider it could provide a local shopping function to serve this locality that complements the more extensive retail provisions along the main roads. I do acknowledge the 400m reference in Policy TLC4 of the Local Plan and that the

² When undertaking the procedure for applications for prior approval under Part 3.

³ in the context of plan making but I have no reason not to consider the categorisation is applicable in this case.

shops in particular in Uxbridge Road would be within this distance. However, as the policy is not positively worded to say changes of use of corner shops will be permitted in these circumstances, and therefore in my judgement, the site falling within this distance does not in itself ensure compliance with the policy as a whole. I consider that the loss of this last shop in this locality, amongst such a reasonably high concentration of residential properties, would be harmful and not meet with the overall aim of Policy TLC4 of acknowledging that corner shops are important for meeting local needs and will be protected for retail use. Taking all these matters into account, I consider that the proposal, in the particular circumstances, would lead to a demonstrable shortage of Class A1 uses in this locality, indeed the loss of the only such facility, and therefore would not meet this requirement of the policy and its overall intentions.

13. Furthermore, I consider that the proposal, where the shop is presently considered a community facility in terms of the Framework, would not guard against the unnecessary loss of the valued facility and service ensuring that it is retained for the benefit of the community. Therefore, the proposal would not comply with these policy elements of the Framework.
14. I have taken into account the comments regarding the small size of the retail accommodation, being much smaller than other typical establishments and therefore potentially less viable, and that it is said that there is little footfall. However, I also give weight to the representations from local residents that indicate that the shop had been, until its closure, a valued facility to this community.
15. In terms of whether there is a reasonable prospect of the building being used to provide such services in the future, it is explained that the appellant bought the site with vacant possession at the start of 2019, with the retail unit in poor overall condition. I have limited details as to why the shop closed. I note that it is said the previous tenant, nor any other potential tenant, has come forward and expressed an interest in running the shop. The information indicates that the marketing of the site has included a "to let" board (although at my site visit no board was evident) and advertising the premises on the letting agents website began in May 2019 and is ongoing (Savills Statement June 2019) with no interest up to that point.
16. In the absence of a detailed marketing report and the reasonably short period of marketing that I have information on, together with the previous use of the site as a shop which appears to have served this local community, I consider that the evidence does not demonstrate to my satisfaction that there would not be a reasonable prospect of the shop use continuing in the future. Once the shop is changed to residential use it is unlikely to return to retail use and therefore I consider it appropriate, based on the information available, to take a precautionary approach.
17. In the light of the above analysis, I conclude that it would be undesirable for the shop to be converted to a flat because of the unacceptable impact of the change of use on the provision of adequate shops in the locality and where there is a reasonable prospect of the building being used to provide such services. As a consequence, the proposal conflicts with Policy TCL4 of the Local Plan and the Framework which seek, amongst other things, to ensure that established shops are retained for the benefit of the community.

Other Matters

18. The proposal would provide an additional unit of residential accommodation on a previously developed site and in an area with a PTAL⁴ of 3. The evidence indicates that there are high house prices in the locality and because of the size and form of the accommodation that would be provided it is likely to be more affordable than other flats. There would be social and economic benefits during the conversion works and in subsequent occupation. However, cumulatively these benefits would be reasonably minor as only a single flat would be provided and I attribute them limited weight. The benefits would not outweigh the harm and development plan conflict which I have identified above and to which I attribute moderate weight.

Conclusion

19. Having regard to the above, and taking all other matters into account, I conclude that the appeal should be dismissed.

David Wyborn

INSPECTOR

⁴ Public Transport Access Level