



Appeal Decision

Site visit made on 30 December 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 February 2020

Appeal Ref: APP/M5450/W/19/3238887
72 Station Road, Harrow, London HA1 2SQ

- 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 Mr Firoz Mohamed against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/2227/19/PRIOR, dated 24 May 2019, was refused by notice dated 12 July 2019.
 - The development proposed is the redevelopment of the subject property from an A1 use to C3 residential.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The application form does not include a description of the proposal. I have taken the description above from the appellants appeal statement. Despite the use class of the premises initially being described as A2, there does not appear to be any disagreement on its use class being described as A1 by reason of its most recent use as an internet café. I have determined the appeal on this basis although in any event, amongst other uses, permitted development rights under Class M are applicable to both A1 and A2 uses.
3. The Council accepts that the proposal meets the requirements of paragraph M.1 of the GPDO and therefore it constitutes Permitted Development under Class M, subject to the prior approval of certain matters. Having considered the evidence submitted by the main parties, I agree that the proposal would be permitted development for which prior approval may be sought.
4. For development to be permitted by Class M of the GPDO, it is subject to a series of conditions requiring prior approval of the Council in relation to various matters. Criterion (d) paragraph M.2.(1) of the GPDO 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 (i) to the adequate provision of services of the sort that may be provided by a building falling within Class A1, A2, A5 or a launderette, but only where there is a reasonable prospect of the building being used to provide such services or (ii) where the building is located within a key shopping area, on the sustainability of that shopping area.

5. Matters relating to the adequate provision of services under sub paragraph (i), transport and highways impacts, contamination and flood risks, or the design and external appearance of the building are not in contention.

Main Issue

6. The main issue is 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

7. The appeal property is a ground floor shop unit on Station Road. Whilst the unit sits opposite the main retail parades, it does sit within a smaller cluster of commercial properties on the eastern side of the road.
8. Sub paragraph (ii) set out in M.2(1)(d) of the GPDO seeks to assess the desirability, or otherwise, of a change of use of a building due to its location in a key shopping area. The GPDO does not define a 'key shopping area'. However, the site sits within the Harrow and Wealdstone Opportunity Area. Whilst not sitting within a designated shopping frontage, the appeal site is covered by Policy AAP2: Station Road within the Harrow and Wealdstone Area Action Plan (2013) (AAP). The Policy requires that proposals along the Station Road frontage should provide active, viable and serviceable non-residential ground floor frontages. The AAP therefore acknowledges the importance of and seeks the protection of the non-residential ground floor frontages which contribute to the predominantly retail/commercial character of Station Road.
9. Although only a snap shot, at the time of my visit the area was vibrant and busy, the wide range of retail/commercial units providing various products and services. It is suggested that vacancy rates are low and this accords with what I saw on my site visit. The location has good accessibility from the immediately surrounding residential areas on foot and from areas further afield via nearby public transport links.
10. The residential use would therefore conflict with the aims of Policy AAP2 of the AAP which seeks to protect non-residential ground floor frontages and the provision of retail and commercial services on Station Road. Such a change of use would also undermine the sustainability of the shopping area through the loss of a commercial unit. The proposed change of use therefore fails to meet the test set out in sub paragraph (ii) of M.2.(1)(d) of the GPDO.

Other Matters

11. Whilst the evidence indicates the premises has been vacant for a reasonable period of time, no evidence has been supplied to demonstrate what, if any, attempts had been made to market the unit at an appropriate rent. It also suggests that the previous tenant made a loss, but no further details are provided. I note supporting arguments for the proposal referencing Community infrastructure levy payments, the lack of objections and the contribution, albeit limited that the unit would make to housing supply. However, my consideration of the case is solely limited to matters set out in criterion (d) and sub paragraph (ii) of paragraph M.2.(1) of the GPDO.

12. Although a prior approval notification at the nearby 68 Station Road has been drawn to my attention, I cannot afford this matter any significant weight as I have only been provided with very limited details.

Conclusion

13. The proposal fails to satisfy the conditions of a prior approval under Class M of the GPDO and for this reason the appeal should be dismissed.

T J Burnham

INSPECTOR