



Appeal Decision

Site visit made on 9 December 2019

by William Cooper BA (Hons) MA CMLI

an Inspector appointed by the Secretary of State

Decision date: 14th February 2020

Appeal Ref: APP/N5090/W/19/3237465

259 Oakleigh Road North, Whetstone N20 0DG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant approval under Schedule 2, Part 3, Class JA of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).
 - The appeal is made by Mr Rose against the decision of the Council of the London Borough of Barnet.
 - The application Ref: 19/3225/PNG, dated 29 May 2019, was refused by notice dated 14 August 2019.
 - The development proposed is described as 'change of use from A1 (shop) to B1(a) (offices) at Ground Floor'.
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Decision

1. The appeal is dismissed.

Application for costs

2. An application for costs was made by Mr Rose against the Council of the London Borough of Barnet. This application is the subject of a separate decision.

Background and Main Issue

3. Schedule 2, Part 3, Class JA of the GPDO permits change of use of a building from a use falling within, amongst other classes, Class A1 (shops) of the Schedule to the Use Classes Order, to a use falling within Class B1(a) (offices). This is subject to criteria under paragraph JA.1 and conditions under paragraph JA.2.
4. It is not disputed that the proposal meets the requirements of Paragraph JA.1 of the GPDO. As such, it constitutes Permitted Development under Class JA, subject to the prior approval of certain matters. In this case, paragraph JA.2(1)(b) of the GPDO necessitates consideration of whether the change of use proposed would be undesirable because of its impact on the following: (i) 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, or; (ii) where the building is located in a key shopping area, on the sustainability of that shopping area.
5. The main issue is whether or not it would be undesirable for the building to change to a use falling within Class B1a (offices), having regard to the effect on

the adequacy of service provision in, and the sustainability of, the shopping area.

Reasons

6. The appeal site comprises a vacant ground floor retail unit which was previously a newsagent and convenience store. It is located within a row of businesses that approximately forms the south-eastern half of a neighbourhood parade, which sits around and faces onto the crossroads of the A109 Oakleigh Road North and Barfield Avenue. The A109 appears to be a well-used road, and is accessible to frequent bus services. The parade is surrounded by a substantial catchment of residential properties within walking distance.
7. The GPDO does not define a 'key shopping area'. Whilst not located within a designated town centre, or defined primary or secondary shopping frontage, I consider that the appeal site is within a key shopping area for the following combination of reasons: it is within a substantial neighbourhood parade which comprises a mixture of businesses including a convenience store, pharmacy, hairdressers, cafe, estate agent, takeaway, vet and bookmakers; an express supermarket is situated on the other side of the A109; the parade is accessible on foot, and by car and public transport to a substantial area of residential properties; it is suggested that vacancy rates in the parade are low and this accords with what I saw.
8. The proposed change of use to office would not generate the same volume of customer 'footfall' as retail use. Whilst the parade hosts a mix of business, it is important to maintain a retail core within it to encourage customer footfall and contribute to its vitality. I therefore conclude that the appeal unit is within an accessible key local shopping area, the viability of which would be undermined by proposed change from A1 retail use.
9. An effective marketing period for a Class A1 unit is defined in Chapter 13, 'Maintaining the local centres and parades', of the London Borough of Barnet's Development Management Policies (2012), as actively marketed continuously for at least 12 months. As this is a recognised 'yardstick', a similar measure can reasonably be applied in consideration of the proposal.
10. The evidence before me indicates that the appeal unit has been vacant since around December 2018 and marketed for A1 retail use, without success, through advertising on various property websites and a board on the property, for a period of up to 8 months. Given that a minimum 12 months marketing campaign is not illustrated, it has not been decisively demonstrated that there is no reasonable prospect of A1 use of the unit.
11. Taking the above together, I conclude that it would be undesirable for the appeal property to change to a use falling within Class B1(a) (offices) due to harm to the provision of Class A1 services within, and sustainability of, the shopping area. The proposed change of use therefore fails to meet the tests set out in paragraph JA.2(1)(b) of the GPDO.

Conclusion

12. For the reasons given above, I conclude that the appeal should be dismissed.

William Cooper INSPECTOR