
Appeal Decisions

Site visit made on 19 May 2020

by Janet Wilson BA (Hons) BTP MRTPI DMS

an Inspector appointed by the Secretary of State

Decision date: 26th May 2020

Appeal A Ref: APP/A1910/W/19/3235231

18 Bridge Street, Hemel Hempstead, HP1 1EF

- 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 C of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
 - The appeal is made by Interface Property against the decision of Dacorum Borough Council.
 - The application Ref 4/01012/19/OTD, dated 24 April 2019, was refused by notice dated 20 June 2019.
 - The development proposed is change of use of A1 to A3 restaurant.
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Appeal B Ref: APP/A1910/W/19/3235655

20 Bridge Street, Hemel Hempstead, HP1 1EF

- 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 C of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Interface Property against the decision of Dacorum Borough Council.
 - The application Ref 4/01167/19/OTD, dated 13 May 2019, was refused by notice dated 20 June 2019.
 - The development proposed is the change of use of A1 to A3 restaurant.
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Appeal C Ref: APP/A1910/W/19/3236531

22 Bridge Street, Hemel Hempstead, HP1 1EF

- 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 C of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr A Chaudhry of Interface Property against the decision of Dacorum Borough Council.
 - The application Ref 4/00955/19/OTD, dated 9 April 2019, was refused by notice dated 20 June 2019.
 - The development proposed is the change of use of A1 to A3 restaurant.
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Decision

1. Appeals A, B and C are all dismissed.

Preliminary Matters

2. As set out above there are three appeals on the site. Although dealt with in one appeal decision, each proposal has been considered separately.

3. All three applications were made to the Council in the name of Interface Property. The application for No.22 Bridge Street identified a named representative however this was not the case for those relating to Nos.18 and 20. However as all are made by the same company and are for part of the same building, I have dealt with them on that basis.
4. Schedule 2, Part 3, Class C of the GPDO permits, amongst other things, development consisting of a change of use of a building from a use falling within Class A1 (shops) of the Schedule to the Use Classes Order to a use falling within Class A3 (restaurants and cafés). This is a qualified right in that exceptions apply whereby development is not permitted by Class C if the cumulative floorspace of the existing building changing use under Class C exceeds 150 square metres. Furthermore, if the development together with any previous development under Class C would result in more than 150 square metres of floor space in the building having changed use under Class C then similarly it is not permitted development. Other conditions also apply however these are only applicable if the development is able to comply with the floorspace requirements.
5. The Council set out that this property is a single unit which was formerly in retail use for 'Dreams Beds' having operated on this site as a single shop for over 10 years prior to the submission of the applications. Reference is also made to the subdivision of Nos 14 and 16 having been previously subdivided by the same process.
6. Historically an application¹ for a prior approval for the whole unit (360 m2 floor area) was refused. The floorspace conversions for the proposed changes of use in these prior approval appeals are given as: No.18, 100 m2; No.20, 120 m2; No.22, 75 m2. The overall total being 295 m2 of floorspace.
7. At the time of my visit the shop unit was empty however the unit remained as a single space.

Main Issue

8. Having regard to the above matters the main issue is whether the proposals constitute permitted development under Schedule 2, Part 3, Class C of the Town & Country Planning (General Permitted Development) (England) Order 2015 (GPDO), as amended.

Reasons

9. The Council's reason for refusal indicates that the appeal proposal would not constitute permitted development by virtue of Schedule 2, Part 3, Class C of the GPDO as the cumulative floorspace total of the existing building changing use under class C exceeds 150 m2 and so fails the test required in that schedule.
10. This is not a matter of planning judgement but an empirical measurement relating to whether the building does or does not qualify with the requirements of the order. As the floorspace cumulatively exceeds 150 square metres it follows that the property, as submitted for the subdivided uses, cannot benefit from permitted development rights under Schedule 2, Part 3, Class C of the GPDO. Full planning permission is therefore required.

¹ (LPA Ref No 4/02825/16/OTD)

11. The Appellant argues that the three properties are separate addresses and permitted development rights should be applied to each. However, from what I have seen and read and from the evidence provided by the Council I am satisfied that this building is a single retail unit and its last authorised use was for that purpose. The fact that the property may historically have been separate addresses is not material to my determination of these appeals.
12. I note that the appellant makes reference to permissions at Nos 14 and 16 Bridge Street having already been converted to A3 café/restaurant use with no mention of the floorspace issue. I saw on my site visit that No.16 is an empty unit and that No.14 was shuttered and not currently operating. I also concur with the Council's comment that should any error have occurred during the consideration of the separation of units 14 and 16 by the Council it does not have any bearing on the appeals before me.
13. The matter of the Councils' handling of applications for Nos 14 and 16 are matters for the Council, though the reference to them is relevant as prior conversions of part of the same building would mean that the cumulative floorspace test would also fail.

Conclusion

14. In the light of the above circumstances permitted development rights conferred by Schedule 2, Part 3, Class C of the GPDO cannot apply to any of the three appeal cases and the consequence of this is that planning permission would be required. Accordingly, all three appeals fail.

Janet Wilson

INSPECTOR