



Appeal Decision

Site visit made on 13 May 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 June 2020

Appeal Ref: APP/F5540/W/20/3244831

Cup of Heaven, Unit 2, 207-208 High Street, Brentford, London TW8 8AH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class C, Paragraph C.2(1) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Ms Effat Safari against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00607/207-208/PA1, dated 9 August 2019, was refused by notice dated 15 October 2019.
 - The development proposed was initially described as the "change of use from A1 Café to A3 Restaurant".
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The submissions of both main parties are inconsistent in terms of the manner in which the appellant's name is spelt. I have therefore used the name given on the original application form in the heading above.

Background and Main Issue

3. The application has been made under the terms of Paragraph C.2(1) of Class C of Part 3 of Schedule 2 of the GPDO¹ on the basis that the existing use of the building falls within Class A1, as defined by the Use Classes Order² (UCO), and that the proposed use would be as a restaurant falling within Class A3, as defined by the UCO.
4. The Council has not contested that the change of use would be prevented by the limitations set out at Paragraph C.1 of the abovementioned Class C of the GPDO. Nor has the Council objected to the proposal in terms of the prior approval matters relating to noise, odour, waste storage and handling, hours of opening, transport and highway impacts and the provision of services. Therefore, the main issues are:
 - In the context of Paragraph C.2(f) of the abovementioned Class C of the GPDO, whether it would be undesirable for the use of the building to change to a use falling within Class A3 of the Schedule to the UCO because

¹ The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)

² The Town and Country Planning (Use Classes) Order 1987 (as amended)

of the impact of the change of use on the sustainability of the shopping area of Brentford Town Centre.

- Whether the proposal would comply with the express terms of permitted development set out in the GPDO related to the requirement to apply for a determination as to whether prior approval will be required in respect of various specified matters prior to the commencement of development.

Reasons

Sustainability of the Shopping Area

5. The appeal relates to the use of the ground floor of a building that is located within a continuous group of commercial premises that extends from Half Acre to Market Place. Although the main parties disagree in relation to what should constitute the primary shopping frontage and the composition of existing uses within the vicinity of the site, it has not been disputed that the appeal site is within Brentford Town Centre and is part of a primary shopping frontage.
6. On visiting the site it was apparent that the group of properties that includes the appeal site features a preponderance of uses that fall outside of Class A1, as defined by the UCO. Furthermore, it appeared that the shopping area has a limited retail offering outside of the group that the appeal site sits within. Therefore, the appeal site and the frontage it is a part of appears to be an important element of the shopping area of Brentford Town Centre.
7. Paragraph 85 of the National Planning Policy Framework states that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It goes on to state that policies should define the extent of town centres and primary shopping frontages and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre. Therefore, I consider it appropriate to have regard to Policy TC4 of the London Borough of Hounslow Local Plan 2015-2030 (HLP), adopted 2015.
8. Policy TC4 of the HLP seeks to maintain and enhance the fundamental retail role of town centres by ensuring that primary frontages and primary shopping areas maintain a high proportion of A1 retail uses. In this respect, the proposal would reduce the proportion of uses in the primary shopping frontage that fall within Use Class A1 and, therefore, would erode its retail function.
9. Whilst the focus of the GPDO is on the shopping area as a whole and not individual frontages, I consider that the reduction of the retail function of this primary frontage would, in turn, detract from the ability of the frontage to contribute to the overall retail function of the shopping area.
10. The proportion of Class A1 uses within the primary frontage is not agreed by the main parties. The 'supporting facts' that accompany Policy TC4 of the HLP, which have been cited by the appellant, identify that the proportion was 63%, but this appears to be unreflective of the existing situation. The appellant also states that 59% of 42 properties are used for purposes falling within Class A1 but the evidence before me does not clarify which properties were included within that assessment and a schedule of uses has not been provided to demonstrate how that calculation was reached. Conversely, I observed that the group of properties that includes the appeal site and the wider area does not feature a high proportion of shops. My observations are supported by the Council's evidence which identifies that 41% of the primary frontage is in Class A1 use. As such, I consider that the proposal would detrimentally affect the retail function of the shopping area.

11. Whilst the appellant's planning statement and the supporting text of Policy TC4 of the HLP identify that the leisure, cultural and entertainment offer of Brentford Town Centre is limited, they also identify that the needs of local residents are not met by the Town Centre as there is a poor range in terms of goods that are sold and the types of shops that exist. In this context, the evidence before me does not give me reason to conclude that the loss of a shop would bring about an improvement in terms of the range of goods sold or the types of shops. Furthermore, I do not find that the improvement to the leisure, cultural and entertainment offering of the Town Centre that has been identified by the appellant, including the provision of a type of cuisine that is not currently available within the locality and the use of the interior walls of the restaurant as a gallery, would compensate for the harm to the retail role of the shopping area.
12. Therefore, for the reasons given above, it would be undesirable for the use of the building to change to a use falling within Class A3 of the Schedule to the UCO because of the impact of the change of use on the sustainability of the shopping area of Brentford Town Centre.

Commencement of the use.

13. The Council's reason for refusal indicates that the use of the building for purposes falling within Use Class A3 has already commenced. However, I have no evidence before me that demonstrates that the premises has been used in such a way. In this case, given the conclusion that I have reached in respect of the other main issue above, I do not consider it necessary to seek further clarification from the main parties in this regard.

Other Matters

14. I have had regard to the comments of the interested party and the response of the appellant in relation to the effect of the opening hours, the use of the refuse storage area to the rear of the building and the proposed flue. However, as I have found that the impact of the development on the shopping area would be undesirable, I do not consider it necessary to address those other matters.
15. The main parties disagree over whether the application was adequately publicised. Whether or not this was the case, I am satisfied that the publicity of the application has not prejudiced the appellant's ability to make their case in support of the proposed development. I also note that the appellant is dissatisfied with the manner that the application was considered and determined by the Council. Whilst I acknowledge this dissatisfaction, the appeal process is not the arena to consider complaints about the conduct of a party and these matters do not diminish the harm that I have identified above or represent a reason to reach a different conclusion in respect of the main issues.

Conclusion

16. For the reasons given above, I conclude that it would be undesirable for the proposed development to occur due to the impact of the change of use on the sustainability of the shopping area of Brentford Town Centre. Therefore, the appeal is dismissed.

Ian Harrison

INSPECTOR