
Appeal Decision

Site visit made on 9 June 2020

by S Tudhope LLB (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 2 July 2020

Appeal Ref: APP/Q0505/W/20/3246754

A5 The Belvedere, Homerton Street, Cambridge CB2 8PB

- 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 Dernford Properties Limited against the decision of Cambridge City Council.
 - The application Ref 19/1373/CMP3, dated 30 September 2019, was refused by notice dated 2 December 2019.
 - The development proposed is change of use from Class A1 to Class C3. Information on transport, contamination and flood risk is provided within the accompanying supporting letter.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. There is no dispute between the parties that the proposal to convert the appeal building to residential use meets the requirements of paragraph M.1 of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (hereafter '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.
3. 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) on 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.
4. Matters relating to transport and highways impacts, contamination and flood risks, and the design and external appearance of the building are not in contention.

5. During the course of the appeal the appellants submitted a 'marketing update' document. The Council was given the opportunity to comment on this information. I am therefore satisfied that no party is prejudiced by my taking it into consideration.

Main Issue

6. The main issue is whether 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 and the prospects of the unit continuing to be used as an A1 shop, or on the sustainability of a key shopping area.

Reasons

7. The site the subject of this appeal is a vacant ground floor retail unit located on the eastern side of Homerton Street. The unit is located within the 'Belvedere' development, a large mixed-use scheme with commercial uses predominantly located at ground floor with residential accommodation on the upper floors.
8. I will deal first with criterion (ii) set out in paragraph M.2.(1)(d) of the GPDO, which seeks to assess the desirability or otherwise of a change of use of the building due to its location within a key shopping area. The GPDO does not define a 'key shopping area'. However, whilst the Council's policies are not decisive in respect of the proposal, the appeal site sits within a designated 'local centre' which is deemed worthy of protection under Policy 72 of the Cambridge Local Plan 2018 (LP). This policy seeks in particular to resist the loss of A1 units unless the proposal compliments the retail function and maintains or adds to the vitality, viability and diversity of the centre.
9. Moreover, the supporting text to LP Policy 72 acknowledges the importance of local centres in providing shops and facilities that can be accessed by foot and bicycle rather than having to travel by car. Taken together, these factors combine to persuade me that the appeal site does form part of a key shopping area. Consequently, the test under M.2.(1)(d)(ii) is relevant in this instance.
10. I acknowledge that the appeal building is in a peripheral position at the end of its parade. This of itself does not mean that the unit would not be attractive for Class A1 use. Indeed, prior to becoming vacant in July 2019 it had been in continuous retail use for the previous 10 years. The appeal unit is situated in close proximity to residential units, including those on the floors above it, which, I consider reasonable to assume, generate footfall that regularly passes the appeal property. I do not, therefore, agree with the appellant that it is located 'off the beaten track'. Nor do I agree that the change from buff bricks on the upper floors of the adjoining building to its east, to painted render above the appeal building, signals the end of the retail offering at ground floor. The appeal unit is clad in materials that match the rest of the parade and its appearance by virtue of the scale of its frontage window and entrance, is that of a shop.
11. I consider that introducing a non-retail use and a non-active residential frontage at the end of this established retail parade would, on the balance of probability, be harmful to the adequate provision of retail services within the local centre, making the area less vibrant and commercially attractive. As a result, the proposal would begin to undermine the vitality, viability, character and function of the local centre. It would have a harmful effect on the

sustainability of the key shopping area, and it would therefore be undesirable for the property to change to a use as a dwellinghouse in the context of Paragraph M.2.(1)(d)(ii).

12. I now turn to criterion (i) of paragraph M.2.(1)(d), which indicates that a change to residential use may be undesirable because of its impact on the adequate provision of retail services, but only where there is a reasonable prospect of the building being used to provide such services.
13. As referred to above, the appeal building has been continuously occupied by a single retail business for the previous 10 years, until July 2019. I observed on my site visit that apart from the appeal building, all other units within this parade and across the road in the Cambridge Leisure complex appeared to be occupied. There was not much activity at the time of my visit, but this was to be expected during the current lockdown restrictions brought about by the Covid-19 pandemic. That vacancy rates appear to be low, indicates that the units are in demand and that there could be a reasonable prospect of the building being used to provide retail services.
14. Although the appellant has marketed the premises for around 10 months and the marketing evidence suggests that there is no demand for retail use of the unit, I have no substantive evidence before me to be certain that the purchase price or rent being asked is equitable to others in the area. On the evidence before me I am not therefore persuaded that there is no reasonable prospect of a retail use coming forward. The proposed change of use therefore fails to meet the test set out in paragraph M.2.(1)(d)(i). Consequently, I conclude it would be undesirable for the building to change to a use falling within Class C3 (dwellinghouse).

Other Matters

15. I note the reference to the Council's handling of the application. However, this is not a matter for this appeal which I have determined based on the evidence before me.

Conclusion

16. For the reasons given above the appeal is dismissed.

S Tudhope

Inspector