



Appeal Decision

Site visit made on 8 June 2020

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 July 2020

Appeal Ref: APP/Q1445/W/19/3243920

15 Cranbourne Street, Brighton, East Sussex, England, BN1 2RD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval under Class C, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Mr Christo Doda against the decision of Brighton & Hove City Council.
 - The application Ref BH2019/03045, dated 10 October 2019, was refused by notice dated 10 December 2019.
 - The development proposed is described as change of use from (class A1) to (Class A3). Noise – will be dampen down with acoustic wall fabric and tiles. The ceiling is already suitable for noise control. The new extract duct will have noise control buffers to stop sound and vibration transmission. Odour – it will be insignificant as the new ducting system and ventilation will remove any odour from ground level areas and will discharge 1m above the highest opening window to top level. Refuse and litter – similar to existing one bin a week, as most of the waste generated will be recycled. Traffic and Parking: N/A. Environment: very low impact. Frontage and Elevation: No change. Menu: English Breakfast. Hours of opening: 07:00 to 11:00. Number of seats: Inside 14 No. Outside: 11 No. Number of people employed from local community: 6 No. Business Rate: Currently £12,120 p/a. Recycle Bins: 2 No p/w. Relations with locals and tourists: Excellent.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The site visit was delayed due to travel restrictions imposed in relation to the Covid 19 pandemic. It was carried out on an unaccompanied basis on 8 June 2020. It was possible to see the site in sufficient detail from public land to fully assess the proposal and determine the appeal.
3. The description of development in the banner heading above has been taken from the original application form. Whilst a different description is used on the refusal notice, the evidence before me does not clearly demonstrate that this was agreed between the main parties before the Council's decision was issued.

Background and Main Issue

4. Class C of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GDPO") provides a permitted development right for the change of use from A1 (retail) to A3

(café) in certain circumstances, However, this is subject to conditions set out in paragraph C.2 of the relevant part of the Order. These require the prior approval of the local planning authority in relation to certain impacts of development.

5. It is common ground that the proposal is eligible for the permitted development right and the conditions in this case are met, but this is with the exception of that set out in paragraph C.2 (1) (f) ("the relevant condition"). This requires that, where the building is located in a key shopping area, the decision maker must assess the desirability of the proposal having regard to its impact on the sustainability of that shopping area. Prior approval was refused for this reason.
6. The main issue in this appeal is therefore whether or not the proposal is located in a key shopping area, and if so, the effect of the proposed development on the sustainability of that shopping area.

Reasons

7. The existing unit is located in the centre of Brighton. It is set on a minor road leading up to the Churchill Square Shopping Centre, in close proximity to the various large shops around Western Road. The Council regard the site as falling within prime retail frontage of a regional shopping centre, and this has not been disputed by the appellant. I agree that this amounts to a key shopping centre, for the purposes of the relevant condition.
8. The economic challenges facing shops and town centres are well known and I note the reports of difficult trading conditions being experienced by the appellant. However, the evidence before me does not conclusively demonstrate a history of vacancy, or that the unit is no longer viable for retail purposes. Consequently, were this appeal to fail, it is reasonable to assume that the unit will continue to operate as a shop.
9. It was clear from my observations on site that a significant number of the units along Cranbourne Street are in non-retail use (reported as 42% by the Council), with a particular focus on food and drink outlets. The low proportion of retail units means that the desirability of the street as a place for shopping is diminished. The change of use of this site to a café would further consolidate this trend, undermining the function of the road as primarily being a place for shopping. This would, in turn, have a negative impact on the wider shopping area within which the site is located, adversely affecting its sustainability.
10. As such, the site falls within a key shopping area and the proposal would have a detrimental impact on its sustainability. The proposed development is therefore undesirable. It fails to meet the relevant condition set out in the GPDO.

Other Matters

11. The site is well situated for a café, reflected in the number of similar establishments along the road some of which may have previously been shops. No significant objections were raised to the proposal by interested parties or consultees. The A3 unit would provide a service to the community and some employment, although this would be at the expense of the loss of a retail unit. I am sympathetic to the personal circumstances described by the appellant in

the appeal statement. I have taken these matters in to account, but they do not change my findings in relation to the relevant legal test discussed above.

12. In so far as it is relevant to the subject matter of the prior approval, the proposal conflicts with the National Planning Policy Framework. This seeks, amongst other things, to ensure the vitality of town centres.

Conclusion

13. For the reasons given above, prior approval is required and is refused. The proposal does not therefore comprise permitted development and the appeal should be dismissed.

Neil Holdsworth

INSPECTOR