

Appeal Decision

Site visit made on 25 October 2020

by R C Shrimplin MA(Cantab) DipArch RIBA FRTPI FCI Arb MCIL

an Inspector appointed by the Secretary of State

Decision date: 05 January 2021

Appeal Reference: APP/A3655/W/20/3249493

'The Hockey Centre', 151-152 Maybury Road, Woking GU21 5JR

- 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 M, Paragraph M.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr M Smith against the decision of Woking Borough Council.
 - The application (reference PLAN/2019/0718, dated 17 July 2019) was refused by notice dated 9 October 2019.
 - The development proposed is described in the application as "the conversion of a vacant retail unit into three apartments".
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for "the conversion of a vacant retail unit into three apartments" at 151-152 Maybury Road, Woking GU21 5JR.
2. Approval is granted in accordance with the application (reference PLAN/2019/0718, dated 17 July 2019), and the details submitted with it, including drawings numbers PL01 (proposed ground floor plan), PL10a (proposed south elevation), PL11 (proposed east elevation), PL12 (proposed north elevation) and PL13 (proposed west elevation).

Preliminary Matters

3. In the planning application form, the description of the proposed development is given by reference to the "Planning Statement". The description given in the headline above has been taken from the statement, therefore.
4. At the time of the application for prior approval, a retail use fell within Class A1 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, as current at that time. In the meantime, the Use Classes Order has been further amended and Class A has been revoked; a retail use now falls within a new Class E of the amended Order. Nevertheless, this appeal is to be determined by reference to the Use Class that was relevant at the time of the application.

Main issues

5. I consider that there are two main issues in this appeal. The first is the effect of the proposed conversion on the potential for adequate provision of retail services in the locality. The second is whether the building is located in a “key shopping area” and, if so, the effect of the proposed conversion on the sustainability of that shopping area.

Reasons

6. The appeal site is located within a long developed and closely built up area of Woking that is dominated by residential uses but within which there are also a number of commercial and other properties, including local stores in different locations. Maybury Road itself is a busy route, carrying one-way traffic outside the appeal premises, and the site is close to the junction with Monument Road (continuing as Maybury Hill), which is a heavily used through route.
7. Number 151-152 Maybury Road stands on the northern frontage of the road, with a railway line opposite that bridges over Monument Road to the east. Much of the northern frontage of the road is lined with pairs of semi-detached houses that follow a consistent design, similar to that of number 151-152, although this has a shop front that links across and unifies the front elevation of this apparent pair.
8. At the eastern end of the Maybury Road frontage, there is a small group of retail units, including the appeal premises. Although the appeal building has the same character as the neighbouring residential buildings to the west, the row of shops that extends up to the junction with the main road forms a short terrace of five shop units that are similar to each other. They offer a range of services, including a pharmacy, beauty salon, barber, newsagent (and money transfer service) and an oriental healthcare shop on the corner.
9. Number 151-152 had been operating on the ground floor as a provider of hockey equipment for a number of years as “The Hockey Centre” (although it has also been referred to as “Mercian Hockey”), and that description has been included in the site address as being more accurate, therefore. Nonetheless, the business no longer operates from the appeal premises which has been effectively left vacant, notwithstanding its temporary use as an art shop, which, I accept, has been a minimal and temporary use. The upper floor appears to have been in use as office accommodation, though the interior of the building was not inspected for this appeal.
10. It is now proposed that the ground floor of the building should be converted to form three flats and a notification for prior approval for a proposed change of use was submitted to the local planning authority. The conversion would involve building operations to the existing building, though without adding an extension. Hence the project comes within the definition of development under Schedule 2, Class M of the General Permitted Development Order.
11. Various criteria are set out in Class M, which the local planning authority may consider before granting prior approval for the change of use. These include transport and highways impacts, contamination risks, flooding risks and the design or external appearance of the finished building. None of these matters is contentious in this case, however. On the other hand, it is also necessary to

- consider the impact of the proposed change of use on “the adequate provision of services”, in this case retail services and related services, and, where located in a key shopping area, on the sustainability of that shopping area.
12. The appeal site lies at the end of a small row of units that provide retail or similar services. At present, the shops and other businesses that occupy these premises do not appear to be intimately linked to the immediate locality and the appeal premises themselves evidently serve a widely spread and specialist clientele. The location is considered to be a “shopping parade”, in accordance with Development Plan policies but that designation is ranked, apparently, below other shopping locations. I conclude that it is not a “key shopping area” for the purposes of the General Permitted Development Order.
 13. Thus, the appeal premises do not fulfil a role in making an adequate provision for retail services, nor does it appear that their loss as a shop unit would materially undermine the potential for such provision in the future, in the circumstances of the particular location. Since the locality is not a “key” shopping area, the loss of the appeal premises would not undermine the area’s sustainability in a way that would conflict with the aims of the legislation.
 14. I accept that there has been a marketing exercise of the premises, to test whether there could be a prospect of their being reoccupied by a retail business, and, in the light of the evidence, I am persuaded that there is not a reasonable prospect of the building being used to provide retail services in the future, even under its new Use Class. Indeed, recent changes to the Use Classes Order would facilitate non-retail uses in any case, for which no special need has been identified. On the other hand, the conversion of the ground floor of the building would make a small but useful contribution to the provision of housing in the area.
 15. In consequence, I have concluded that the appeal should be allowed and that prior approval should be granted. Although I have considered all the matters that have been raised in the representations I have found nothing to cause me to alter my decision.
 16. I have, however, also considered the conditions that have been proposed by the local planning authority within their submissions. I have noted that conditions relating to sound insulation of windows and doors are not directly related to matters identified in the General Permitted Development Order and that they are matters that are more appropriately controlled (if necessary) under building control legislation. I am not persuaded that planning conditions are needed, therefore.
 17. It is acknowledged that, in this case, the approval of the local planning authority is also required under Regulation 77 of the Conservation of Habitats and Species Regulations 2017 (due to the proximity of the site to the Thames Basin Heaths Special Protection Area). It appears that this approval has not yet been given but this is a separate application and approval process, to be pursued with the local planning authority. The appellant is reminded that the approved scheme cannot lawfully be commenced until the developer has made an application under Regulation 77 and the authority is satisfied that the development would have no adverse effect on the integrity of the habitat. Nevertheless, as there is a separate regulatory process for development likely

to have effect on a European site, it is not necessary or appropriate for me to impose a condition relating to this matter.

18. Prior approval is granted under the provisions of Article 3(1) and Schedule 2, Class M of the General Permitted Development Order and standard conditions apply, therefore.

Roger C Shrimplin

INSPECTOR