



Appeal Decision

Site visit made on 8 December 2020

by Lynne Evans BA MA MRTPI MRICS

an Inspector appointed by the Secretary of State

Decision date: 14/01/2021

Appeal Ref: APP/A3655/W/20/3248995

24 Monument Road, Woking, Surrey GU21 5LS

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Mehboob Afzal against the decision of Woking Borough Council.
 - The application Ref: PLAN/2019/1035 dated 15 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed is change of use from carpet shop to residential unit.
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Decision

1. The appeal is dismissed.

Procedural matters

2. Article 3(1) and Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) provides that development consisting of a change of use of a building from a use falling within Class A1 (shops) to a use falling within Class C3 (dwelling houses) is permitted development, subject to a number of limitations and conditions set out under M.1 and M.2 of the GDPO.
3. On 1 September 2020 the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force amending the Town and Country Planning (Use Classes) Order 1987. Of relevance to this appeal, a new Class E has been created, which incorporates a range of previous retail and commercial uses, including shops, previously under Class A1. However, the provisions require that current appeals must be decided with reference to the use classes, as existing prior to 1 September 2020, if the application was submitted prior to that date. That is the case in this instance and therefore I have considered the proposal as seeking prior approval for a change from Class A1 (shops) to Class C3 (dwelling houses).

Main Issue

4. The Council has confirmed that the development would comply with each of the requirements and limitations laid out under Class M.1 paragraphs (a) to (g) of the GPDO. The Council has further confirmed that under the conditions set out under Class M.2, there would be no concern in respect of conditions (a)

(transport and highways impacts), (b) (contamination risks), (d) (adequate provision of services) and (e) (design/ external appearance). The sole reason for refusal relates to concerns over flooding, which is one of the conditions, set out under M.2 (c).

5. From all the information before me as well as my site visit, I have no reason to take a different view. Accordingly, I consider the main issue in this appeal is whether the proposal would create a safe living environment for future occupiers, with particular regard to flooding.

Reasons

6. The appeal property is the ground floor shop unit of a corner building fronting the western side of Monument Road, on the junction with Walton Road, in a mixed use area with a number of commercial uses interspersed with residential uses.
7. No Flood Risk Assessment has been submitted by the Appellant. However, I am advised by the Council that the site lies within medium and very high risk surface water flood risk zones. Furthermore, the local area has been known to flood, the most recent being in 2016, and the Council has described that in 2016, properties were beginning to flood within 15 minutes of the rainfall event occurring, with residents experiencing depths of flooding in excess of 800mm. The Appellant has, however, indicated that the appeal site itself has not flooded in the previous 40 years.
8. Paragraph 163 of the National Planning Policy Framework (Framework) is clear that development should only be allowed in areas at risk of flooding where a number of criteria are satisfied, including, amongst others, that b) the development is appropriately flood resistant and resilient, d) any residual risk can be safely managed and e) safe access and escape routes are included where appropriate as part of an agreed emergency plan.
9. I have noted the Appellant's evidence that the unit has not flooded in recent times and that the internal floor level is some 600mm higher than external ground level. However, the evidence from the Council is clear that the property, given its location, is at risk of flooding and that a residential use would constitute a more vulnerable use, compared with the current use. Furthermore, all the accommodation, including the sleeping accommodation would be at ground floor level and I have not been provided with any information to indicate that the proposed residential unit would be flood resistant or resilient. Furthermore, no information has been provided to demonstrate that there would be any safe access and escape routes available or proposed as an emergency plan. On the limited information before me, I am not satisfied that the risk of flooding could be mitigated, including through imposing conditions.
10. I therefore conclude that the proposal would not create a safe living environment for future occupiers, with particular regard to flooding. The proposal therefore would fail to comply with the provisions of M.2 (1) (C) of Article 3, Schedule 2 Part 3 Class M of the GDPO.
11. The Appellant has referred to other properties in the local area where permission has been granted for ground floor residential flats. Each proposal must be considered on its individual merits and furthermore, I have no

information before me in respect of any of these other developments. Nonetheless the fact that there have been other developments granted does not persuade me that this development should be allowed, given the harm I have concluded.

Conclusion

12. For the reasons given above and taking into account all other matters raised, the proposal does not comply with all the conditions applicable under Article 3, Schedule 2 Part 3 Class M of the GDPO. Consequently, the appeal fails.

L J Evans

INSPECTOR