The Planning Inspectorate

Appeal Decision

Site Visit made on 3 March 2021

by S J Lee BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 March 2021

Appeal Ref: APP/Y5420/W/20/3261428
Ground Floor Shop, 77 Tottenham Lane, Hornsey, London N8 9BE

- 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 Mr Moses Koumi against the decision of London Borough of Haringey.
- The application Ref HGY/2020/2100, dated 14 August 2020, was refused by notice dated 7 October 2020.The development proposed is prior approval for change of use from A1 (retail) to A1 (retail) / C3 (dwellinghouse).

Decision

1. The appeal is dismissed.

Preliminary Matters

2. 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 (dwellinghouses) is permitted development, subject to a number of limitations and conditions set out under M.1 and M.2 of the GPDO.

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, is the new Class E, which incorporates a range of previous retail and commercial uses, including shops, previously under Class A1. However, applications submitted prior to this date must be decided with reference to the original use classes. This is the case here and therefore I have considered the proposal as seeking prior approval for a change from Class A1 (shops) to partial Class A1 and Class C3 (dwellinghouses).

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, their sole concern relates to M.2(d). This refers to local service provision and the effect of the development on the sustainability of a key shopping area.

5. From the evidence before me I have no reason to take a different view. Accordingly, the main issue in this appeal is whether the change of use would

be undesirable in terms of the effect on the sustainability of a key shopping area.

Reasons

6. The GPDO does not define what a 'key shopping area' is. The Council has indicated that the site is in a local shopping centre as defined in the development plan. Such centres are identified as being important in providing local services and facilities. As such, the Council are content the area should be viewed as a key shopping area for the purposes of the GPDO. I have seen no evidence which would lead me to a different conclusion.

7. The appeal relates to a vacant unit that is located within a terrace of shops. The development would result in the majority of the floorspace being converted to a dwelling, with a small area of just under 10 square metres to the front retained as a shop. The existing shop front would remain in place.

8. There is very little evidence to suggest that a shop of the size proposed would be a viable proposition. No clear information has been provided which suggests a store of less than 10 sqm would be attractive to the local market. The appellant has drawn my attention to the appeal on the neighbouring unit[1] where approval for a similar proposal was allowed on appeal. This would have also allowed for a 'micro shop' with living space to the rear. In this case, the Inspector was satisfied by the evidence before him that there was a market for this type and size of unit.

9. However, the evidence considered by the previous Inspector is not before me. Furthermore, the appellant has not provided any similar up-to-date information to support this proposal. I am also mindful that the neighbouring appeal was considered some time ago and the retail market can evolve quickly. Therefore, even if I were to accept there was a market for such uses at the time of the previous scheme, there is no clear evidence before me which confirms this continues to be the case. The evidence suggests that the neighbouring proposal has not been implemented. While this is not determinative, it provides no comfort that such 'micro shops' are in high demand or are viable. No examples of any similar operational units either in this locality or elsewhere have been provided.

10. The Council has raised concerns about whether the unit would provide sufficient space to provide any necessary staff facilities. Irrespective of the guidance and legislation referred to, I consider this a legitimate concern. The appellant has again referred me to the neighbouring appeal in this regard. However, I have not been made aware of the evidence the Inspector was asked to consider in that case and thus cannot conclude with certainty this was a significant factor in his determination of the appeal. In my view, it would be reasonable to assume that the lack of any ancillary space or facilities for staff would further limit the attractiveness of the unit to potential operators. If this were to be provided, it would further reduce the already limited floorspace available. Either way, this adds to my concerns about the viability of the unit.

11. Based on the evidence before me, I cannot be certain that a retail unit of the size proposed would be able to operate successfully. In this context, if the space remained unused any benefits of retaining the shop front or an element

[1] Appeal reference: APP/Y5420/W/18/3208740

of commercial floorspace would not be forthcoming. Rather, there would be a significant risk that the unit would either be permanently vacant or empty for a significant periods with little prospect of long term occupation. Given the unit's position in the parade, this risk could lead to the separation of shop units with 'dead' frontage. This cannot be considered anything other than harmful to the character of the shopping area and consequentially its vitality and viability.

12. While the existing unit has been vacant for some time, there is no clear evidence that it is not fit for purpose and could not be used for commercial purposes. Any risks associated with the unit remaining vacant as it is therefore appear far less likely or significant than with the proposal. The current vacancy does not therefore justify the potential harm that would be caused.

13. Other than generalised assertions about demand for units, no substantive evidence has been submitted in relation to the existing health of the parade. My visit coincided with the period of lockdown due to the COVID-19 pandemic. Non-essential shops were thus closed. However, from what I saw the parade provides for a reasonable number of units of different types. On this basis, the development would be unlikely to lead to a situation where there would be inadequate provision of services in either the A1 or A2 Use Classes. I therefore have no concerns in relation to the conditions of Paragraph M.2(1)(d)(i). Nevertheless, this does not alter my conclusions in terms of the sustainability of the local centre in the event the retained floorspace remained empty.

14. To conclude, by reducing the size of the retail unit and making it less likely to attract a retail use, the development would have a harmful effect on the sustainability of this key shopping area. It would therefore be undesirable for part of the appeal building to change to a use falling within Class C3. The development would therefore fail to comply with the conditions set out in Paragraph M.2(1)(d)(ii) of the GPDO.

15. In coming to this conclusion, I have had regard to the decision on the neighbouring unit. Nevertheless, I am not bound by this decision and do not have the full details of the evidence or arguments that were put to the Inspector. Having considered the appeal based on the evidence before me and my observations of the area, the outcome of the neighbouring appeal does not outweigh the concerns identified.

Other Matters

16. The development would facilitate the creation of a new residential unit, which would provide some moderate economic and social benefits. However, this does not justify approval of a scheme which is likely to result in harm to the sustainability of the centre.

17. I have noted the issues raised in relation to the rear servicing of the unit and what has previously been allowed. This does not alter my conclusion that the reduction in floorspace would not provide a viable unit and that this would have an unacceptable impact.

Conclusion

18. For the reasons given above I conclude that the appeal should be dismissed.

S J Lee INSPECTOR