



Appeal Decision

Site visit made on 18 May 2021

by J D Westbrook BSc(Hons), MSc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th June 2021

Appeal Ref: APP/L5240/W/20/3259256

1a Selsdon Road, South Croydon, London, CR2 6PU.

- 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 Surreywide Limited against the decision of the Council of the London Borough of Croydon.
 - The application Ref: 20/02493/GPDO dated 11 June 2020, was refused by notice dated 7 August 2020.
 - The development proposed is a change of use of the rear part of a ground floor A2 shop to a C3 residential studio unit with associated works.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issue in this case is the impact of the proposed change of use on the adequate provision of services and the sustainability of the shopping area along Selsdon Road and South End.

Reasons

3. No 1a Selsdon Road is a retail unit situated on the eastern side of the road. Nos 1a – 1c form a group of three retail units with flats above and to the rear. The properties along this part of the road are a mix of two and three storeys, and most appear to have long single-storey rear extensions. The ground floor configuration of units in the vicinity vary in size, some extending well back into the building and others having a shallower retail area. No 1a has a retail component that extends well back into the building, though at the time of my visit the shop was vacant. Separate access to residential units above is from a narrow alley at the side of the shop towards the rear of the of the building.
4. The proposed development would entail the physical separation of the rear portion of the existing retail unit and the creation in this area of a studio flat. This would leave a shop unit reduced in size at the front of the building, and a residential unit at the rear with independent access from the side alley towards the rear of the building.
5. Class M of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO) relates to changes of use from retail or a betting office or a pay day loan shop

- to a dwelling-house. In this case, the proposal is to change the use of part of a Class A1 retail unit to a Class C3 residential studio unit.
6. The conditions set out in Paragraph M.2 of Class M indicate that a developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. Amongst other things, this relates to whether it is undesirable for the building to change to a use falling within Class C3 (dwelling-houses) of the Schedule to the Use Classes Order because of the impact of the change of use on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops), or where the building is located in a key shopping area, on the sustainability of that shopping area.
 7. Selsdon Road is located within the Brighton Road Local Centre and is designated as part of a Primary Shopping Area on the Council's Local Plan (LP) Policies Map. This Primary Shopping area includes main and secondary retail frontages. The main retail frontages include Ruskin House/Parade, to the south of the appeal property, and a row of shop units on the opposite side of Selsdon Road to the appeal property. No 1a itself is part of a long secondary retail frontage that stretches along the eastern side of Selsdon Road and South End, from Aberdeen Road in the north, to Heathfield Road in the south.
 8. On the Policies Map of the LP, main retail frontages are shown in the form of a single red line along the front of the properties. Secondary retail frontages are shown as standard and regular long red boxes along the front parts of the properties. The proposed studio flat would be sited at the rear of the shop unit, behind the rear line of the box that is used to designate a secondary retail frontage. The appellants contend that the area behind the red line is outside of the secondary retail frontage and, therefore, should be treated as being outside of a frontage but within the Primary Shopping Area.
 9. On the basis of the above, the appellants contend that all proposals for mixed use development are acceptable, in line with Policy DM4.3 and Table 5.3 of the LP. I disagree. I note that all designations of secondary retail frontages across the borough are shown as identical red boxes, irrespective of property types, sizes and designs. Moreover, the designation of main retail frontages is given simply as a single red line at the front of the properties. This appears to indicate that the single red line and the red box are merely illustrative of a hierarchy of shopping frontages, and are not meant to show exact amounts of shop floor covered by the designations.
 10. With regard to the secondary retail frontage extending both north and south of the appeal property, I note that the scale and configuration of the designation box is standard along several rows of shops. Whilst this line coincides with the rear elevation of the two-storey elements of the properties in the vicinity of the No 1a, it is not a direct match at other points along the road where properties are at a slight angle or of different design. This also indicates that the rear line of the box should not be taken as a 'boundary' of the frontage. Given the variety of ground-floor configurations of the shop units along this frontage, it seems clear that the term 'frontage' is used for designation purposes only, and that the entirety of the ground floor retail usage should be included in the designation of a main or secondary retail frontage for policy purposes. In the light of the above, I find that the proposed studio flat would be located within the secondary retail frontage that runs along the eastern side of Selsdon Road.

11. Since the proposed change of use would take place within the secondary frontage, Policy DM4.3 does not apply to the proposal. Table 5.3 of the LP relates to new development proposals and changes of use in Croydon Local Centres. Under the designation of secondary retail frontages it states, under the heading of 'all other uses', that unless it relates to a community use, a proposal involving an increase of existing non A Class ground floor space within a Secondary Retail Frontage will be refused. The proposal does not relate to a community use and would therefore be an unacceptable non A Class use.
12. It is now necessary, specifically to consider the conditions applying in Paragraph M.2 of Class M in Part 3 of the GPDO. The Council contends that the proposed development would result in the Class A floor space being reduced from 82.5sqm at present to 47.9sqm. Although the shop front would be retained the Council considers that such a decrease in floorspace would significantly reduce the usability and flexibility of the site to accommodate a range of Class A uses in the future. On this basis, the Council considers that the proposal would damage the vitality and viability of the Local Centre and the Secondary Retail Frontage, and that it would be undesirable for part of the ground floor to be used as a dwelling-house. I concur with that view.
13. The appellants indicate that they have experienced significant difficulty in finding suitable new retail tenants following the departure of the most recent tenants, who vacated the property in November 2018. The appellants acknowledge that there have been difficulties in letting properties during the pandemic, but it would appear that it has been possible to run a temporary small-scale retail operation, and at the time of my visit there were few vacant units in the area. I agree with the Council that a smaller unit would be likely to restrict the potential market for the space, particularly at the present time when it would seem important to widen the scope rather than narrow it.

Other Matters

14. The appellant refers to another planning application relating to No 1c Selsdon Road, which was granted prior approval consent in February 2019. This application related to the creation of a studio flat at the rear of the ground floor shop unit, and was granted consent on the basis that the rear of the property was outside of the secondary retail frontage. I note similarities with the current case, although at No 1c the ground floor retail area remained deeper and extended well beyond the rear line of the secondary frontage designation symbol, such that the flat is at the very rear of the plot.
15. The appellants contend that there is inconsistency in the decisions issued by the Council relating to Nos 1a and 1c with regard to secondary retail frontage designation. I accept that there appears to be inconsistency but, from the evidence available to me, I consider that the decision in this current case is correct in that the 'box' symbol used to show the designation should not be taken as an accurate indication of the full and precise extent of the secondary retail floorspace.
16. Finally, the Council raised no objections to the design or external appearance of the building as a result of the associated works needed to create the studio flat. I accept that the overall external appearance of the property would not be harmed by the proposal. However, I note certain aspects of the works associated with the design of the flat within the building that could result in undesirable living conditions for the occupants.

17. In particular, the sole window for the kitchen/living space is full height and immediately adjacent to the main door to the stairwell serving the flats associated with the property. This could raise issues of lack of privacy. Also, this window faces north-east, while the window/door in the bedroom area faces north-west onto a small private amenity space. I have concerns that such arrangements, coupled with the fact that the main living area is some distance from the windows, could result in dark and somewhat oppressive living conditions. These concerns regarding the design of the proposed flat add to my conclusion that the proposal would not meet the conditions for prior approval as set out in Paragraph M.2 of Class M.

Conclusion

18. I find that the proposed studio flat would be situated within a secondary retail frontage and that, on this basis, the conversion of retail space to residential space would be undesirable, in that it would be likely to adversely affect the vitality and viability of the primary shopping centre. It would result in a loss of non-A Class ground-floor space and would, on this basis, conflict with Policy DM4 of the LP. I also have some concerns regarding the works associated with the design and creation of the proposed flat with regard to potential harm to living conditions, and this adds further to my conclusion that the proposal would not meet the conditions for prior approval as set out in Paragraph M.2 of Class M of Part 3 to Schedule 2 of the GPDO.

J D Westbrook

INSPECTOR