



Appeal Decision

Site Visit made on 14 September 2021

by G Pannell BSc (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05 October 2021.

Appeal Ref: APP/L5240/W/20/3250507

31 Whitehorse Road, Croydon, CR0 2JH

- 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 MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr N Omar against the decision of London Borough of Croydon.
 - The application Ref 19/05655/GPDO, dated 21 November 2019, was refused by notice dated 27 January 2020.
 - The development proposed is change of use to residential
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment)(England) Regulations 2020 came into force and have made significant amendments to the previous system of use classes. Under the new system, Class A has been revoked and a new Class E which incorporates the previous shops (A1), financial and professional services (A2), restaurants and cafes (A3) and offices and other business uses (B1) use classes within Class E. The proposal therefore falls to be considered under Class MA of the Order.
3. However, paragraph 4 of the Schedule (the transitional and saving provision) to the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No 2) Order 2021 states that where development would be subject to a new condition, and the application for prior approval made before 1st August 2021, it may proceed subject to the conditions imposed by the previous provision.
4. Class MA of Schedule 2 of the GPDO introduces a new condition by requiring that the application for prior approval under this class be made on or after 1st August 2021. This is not substantially the same as a condition to which an approval under Class M was subject. It is therefore necessary for me to assess the proposal against the conditions imposed on development under Class M.
5. Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) permits, amongst other things, development consisting of a change of use of a building from a use falling within Class A1 (shops) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwelling houses). This is a qualified right in that exceptions apply whereby development is not permitted by Class M. There is no dispute that the appeal site was previously in use as a Class A1 use and as

such it is not disputed that the appeal proposal constitutes permitted development.

6. Under the provisions of the GPDO, development is permitted under Part 3, Schedule 2, Class M subject to Condition M.2 (1) that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to a range of potential impacts. In this case, it relates to (a) transport and highway impacts of the development; (d) whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use – (i) on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or (ii) where the building is located in a key shopping area, on the sustainability of that shopping area and (e) the design or external appearance of the building.

Main Issues

7. Having regard to the GPDO and the reasons for refusal, the main issues are:
 - the transport and highway impacts of the development;
 - the design or external appearance of the building; and
 - whether adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) exist.

Reasons

Transport and highway impacts of the development

8. The proposed development would not benefit from any parking on site or any external cycle storage. The site has a Public Transport Accessibility Level (PTAL) rating of 6, which indicates extremely good access to frequent public transport services. The sites PTAL rating is a strong indication that it is well related to services and facilities and public transport.
9. I have not been provided with any detailed information in respect of car parking demand in surrounding streets. However, the existing use of the ground floor use would also likely to generate some demand for parking and it has not been demonstrated that the proposed development would increase that demand. As such, in this instance the proposed development would not significantly impact on demand for on-street parking and future occupiers of the proposed dwelling would have options other than the private motor car. Therefore, in this instance the lack of parking would be acceptable provided that appropriate cycle parking could be provided.
10. In respect of cycle parking for the proposed development, the London Plan Table 10.2 - Minimum cycle parking standards require a minimum of 2 cycle spaces to be provided and the appellant has indicated that cycles would be stored within the proposed dwelling.
11. However, no details of been provided to indicate sufficient space exists for cycle storage and in order to gain access to any cycle spaces occupiers would need to pass through the ground floor entrance and through the living room

and an awkward hallway with multiple turns. This would make it less convenient for cyclists and would be unlikely to encourage occupants to cycle, as is the intention of the London Plan.

12. Paragraph 109 of the National Planning Policy Framework (the Framework) requires development proposals to take opportunities to promote walking, cycling and public transport use and at paragraph 106d that planning policies should support facilities such as cycle parking. Therefore, I consider that the lack of appropriate cycle storage would be contrary to the provisions of the Framework, which promotes sustainable transport.
13. Policy DM13.1 of the Croydon Local Plan 2018 (LP) requires that the location and design of refuse and recycling facilities are treated as an integral element of the overall design. The supporting text to the policy highlights that this is to ensure that problems with rubbish being left on footways are minimised. However, no details have been provided to indicate where refuse bins would be stored. Whilst the appellant has indicated refuse would be stored in the common passageway door, this has not been detailed within the submitted plans and given the lack of external space provided within the appeal site it is unclear how this would be achieved. Therefore, the imposition of a planning condition would not be appropriate in this case and the lack of appropriate refuse storage would be detrimental to highway and pedestrian safety.
14. In conclusion, noting the scale of the dwelling proposed and the proximity of the site to public transport options, I consider that whilst the lack of on-site parking would not be detrimental to highway or pedestrian safety, the proposal fails to provide adequate cycle storage. This would undermine cycling, walking and public transport use and lead to transport impacts which would be contrary to the provisions of the Framework and policy DM29 of the LP which promotes measures to increase cycling.
15. The development also fails to provide sufficient refuse storage, contrary to policy DM13.1 of the LP, which would be detrimental to highway and pedestrian safety if incorrectly stored. It therefore conflicts with paragraph M.2(1) (a) of the GPDO.

External appearance

16. The existing frontage of the building comprises a shopfront window with roller shutter and fascia sign above. The proposed development would result in the replacement of the existing shopfront with a front door and two windows, which would result in a significant change to the external appearance of the frontage of the building.
17. Within Whitehorse Road there are a variety of designs of shopfront, comprising a range of materials. Whilst the existing shopfront does not comprise any features of architectural merit, as identified within the Council's reason for refusal, the front elevation does contain elements of detailing around the upper windows and presents an interesting façade.
18. The position and design of the proposed windows and door do not appear to have had regard to the detailing and position of the existing fenestration and does not result in a visually attractive development as a result of good architecture. Paragraph 134 of the Framework states that development that is not well designed should be refused. Therefore, I consider that the proposed

alterations to the existing shopfront would be contrary to the provisions of the Framework, which promotes good design. It therefore conflicts with paragraph M.2(1) (e) of the GPDO.

Effect of the change of use

19. Paragraph M.2(1)(d)(i) indicates that consideration can be given as to whether there is an adequate provision of services of the sort that may be provided by a building falling within Class A1, where there is a reasonable prospect of the building being used to provide such services.
20. Policy SP3.12 of the LP states that the Council will seek to maintain the current amount of retail floor space in Croydon and policy DM6 of the LP states that to ensure the vitality and viability of the borough's Shopping Parades is maintained, changes of use on the ground floor to non Class A uses will be refused.
21. Development plan policies may be relevant in prior approval cases, but only insofar as they relate to the matters to be considered. If and where the plan contains material that is relevant to the planning judgement to be made, it may be taken into account as a form of evidence for that prior approval matter.
22. The requirements of the prior approval is whether there is an adequate provision of services of the sort that may be provided by a building falling within Class A1, which is less restrictive than the requirements set out in both policies SP3.12 and DM6. Therefore, I have given the resulting conflict with the adopted policies only limited weight in my considerations.
23. The appeal site is located within a mixed commercial and residential area, with the protected shopping parade of Whitehorse Road being directly next to the site. The site comprises a ground floor retail unit with living accommodation above.
24. The site is in close proximity to a range of shops and services which are provided within Whitehorse Road and as a result of the alternative provision of shops within a short distance from the appeal site, I am satisfied that the loss of the A1 retail unit would not be detrimental to the adequate delivery of such services within the vicinity. Therefore, none of the matters set out at Paragraph M.2 (1)(d)(i) indicate that prior approval should be withheld.

Conclusion

25. For the reasons given above, notwithstanding my findings on the adequate delivery of such services within the vicinity, the appeal is dismissed in the context of Paragraph M.2(1)(a) transport impacts of the development and (e) the design and external appearance of the building.

G Pannell

INSPECTOR