
Appeal Decision

Site visit made on 9 November 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30th November 2021

Appeal Ref: APP/H5390/W/21/3277500
365 New Kings Road, London SW6 4RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Govind Mistry against the decision of the Council of the London Borough of Hammersmith & Fulham.
 - The application Ref 2021/00383/FUL, dated 5 February 2021, was refused by notice dated 9 April 2021.
 - The development proposed is change of use from a ground floor retail unit (A1) to a residential (C3a) 2 bed flat. Demolition of part of the building to the rear to provide a private amenity space for the ground floor flat. Demolition of the shopfront and new bay window, low brick wall and railings to front elevation. Formation of a new roof terrace on the existing flat roof to provide a private amenity space for the first floor flat. New roof light to front elevation.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of the proposal has been altered from the application form to the decision notice. That on the application form is not wholly inaccurate nor unclear and I have determined the appeal on that basis.
3. I acknowledge that the proposal incorporates the replacement of 1no. window with a door, partial demolition of the ground floor rear extension to create new door and window openings, roof canopy, entrance gate, cycle parking and bin stores.

Main Issue

4. The main issue is whether the loss of the retail unit would leave residents with adequate local convenience provision.

Reasons

5. The premises hosts Bishop's Stores, which provides a range of convenience products as well as other linked services such as parcel drop off/collection within a densely populated residential area. The evidence indicates that the premises is well used and although only a snapshot in time, I was able to observe that the shop had regular custom for the duration of my site visit on a weekday lunchtime. The premises resemble a typical newsagent and did not appear untidy within the area.

6. Policy TLC4 of the Fulham Local Plan (2018) (FLP) acknowledges the importance of corner shops in meeting local needs. The policy does not permit their change of use where alternative shopping is unavailable.
7. The site is approximately 350m from Fulham Town Centre and approximately 300m from the neighbourhood parade further along New Kings Road. The evidence indicates that other convenience stores are available to the west on New Kings Road and Fulham High Street, while a Co-Op supermarket is available to the north east along New Kings Road. These premises are a moderate 5-minute walk from the appeal site.
8. The routes to these facilities would be reasonably walkable and whilst I accept that trips may be slightly more difficult for elderly or disabled residents, level footways along with pedestrian crossings are well provided for in the area. Overall, there are other local convenience stores that are likely to provide similar products. I therefore conclude that adequate local convenience shopping provision would remain, even accounting for the loss of Bishop's Stores.
9. The proposal would not therefore conflict with Policy TLC4 of the FLP, where in relation to corner shops, changes of use from retail will not be permitted where there is a shortage of alternative shopping. Shortages are defined as incidences where amongst other things town centres and retail parades are not within 400m.
10. However, the evidence indicates that the value of the unit to the local community goes beyond just shopping, also extending into the services offered. Parcel drop off and collection services appear to be used extensively and valued both on a personal and business basis. The evidence also indicates that a newspaper delivery service is available. There is nothing within the evidence which indicates whether these services, which appear to be highly valued, would remain available locally, were the change of use to occur.
11. The proposal would therefore conflict with Policy E9 of the London Plan (2021) which amongst other things seeks to support a successful, competitive and diverse retail sector which promotes sustainable access to goods and services for all Londoners.
12. Further, the Framework¹ at Paragraph 93 states amongst other things that decisions should plan positively for the provision and use of community facilities such as local shops to enhance the sustainability of communities and residential environments. Allowing the appeal would work against this objective.

Other Matters

13. Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended) (GPDO) grants permitted development rights for a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses).
14. However, this is subject to the developer applying to the local planning

¹ National Planning Policy Framework 2021.

authority for a determination as to whether the prior approval of the authority will be required as to certain matters, which would be a separate process. Amongst other matters, development would not be permitted unless the building had been vacant for a continuous period of at least 3 months immediately prior to the date of the application for prior approval. I therefore afford limited weight to the existence of permitted development rights in relation to a fallback position.

15. There is no detailed evidence which indicates that the retail unit is no longer viable as a result of other local retail provision. No detail is put forward in regard to concerns over noise from existing refrigeration units and traffic associated with the premises. I therefore afford these matters limited weight.

Planning Balance and Conclusion

16. The proposal would provide some additional housing with good transport links. However, the amount of housing provided would be very small. These benefits would be clearly outweighed by the loss of services at the site which are highly valued by the local community.
17. Material considerations do not indicate that the decision should be made otherwise than in accordance with the development plan. I therefore conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR