



Appeal Decision

Site Visit made on 24 November 2021

by Andrew McGlone BSc MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 December 2021

Appeal Ref: APP/H5960/W/21/3272082

55 Trinity Road, London SW17 7SD

- 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) ('GPDO').
 - The appeal is made by Mr Dushyant Patel against the decision of London Borough of Wandsworth.
 - The application Ref 2020/4137, dated 18 October 2020, was refused by notice dated 14 December 2020.
 - The development proposed described as the conversion of existing shop (a1) to mixed use as a 1 bed flat (c3) and a shop (a1) with external and internal alterations. Adequate natural light is provided to the lounge/kitchen area with a new pair of french doors and fan light over with an ADF (average daylight factor) value of 2.85 which exceeds the BRE recommended value requirement for habitable rooms of 2.0 for living/kitchens. In addition adequate natural light is provided to the bedroom with a new window and a new glazed door with an ADF value of 3.15 which exceeds the BRE recommended value requirement for habitable rooms of 1.0 for bedrooms.
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Decision

1. The appeal is dismissed.

Preliminary Matters and Main Issue

2. Since the Council refused prior approval, the GPDO was amended. This resulted in a change to Schedule 2, Part 3, Class M and the insertion of Class MA. The changes took effect on 1 August 2021. However, as Class MA introduced a new condition, and the prior approval application was made before 1 August 2021, transitional provisions mean that the development may proceed irrespective of whether the new condition has been complied with. However, the development must still comply with any other condition imposed by the previous provision. My assessment has been made on this basis.
3. Development coming within this class is deemed to be granted planning permission by the GPDO provided that it would comply with the limitations listed. It is a condition, among other things, 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 subject to several matters.
4. I agree with the main parties' assessment about the other provisions of this class and that the dispute relates to the impacts of the proposal on the adequate provision of services or the sustainability of Tooting Bec Local Centre.

Reasons

5. The appeal property is on the south-western side of Trinity Road, opposite its

road junction with Holderness Road. The appeal property is within a terrace of 14 units comprising commercial units at ground floor level and residential accommodation above. Many of the properties in the terrace have been extended or altered from their original form to provide varying degrees of commercial and residential floorspace, with many providing residential floorspace at ground floor level to the rear of the commercial frontage.

6. The ground floor was last used a stationer. The customer floorspace is to the front of the ground floor, with storage space and staff facilities to the rear. The floor area is estimated by the Council to be around 55m². A separate residential front door within the shop front provides access to stairs up to the first and second floors that are in residential use.
7. Even if the appellant is correct that an adequate provision of shops and financial and professional services would remain, the second part of this condition requires the demonstration that there a reasonable prospect of the building being used to provide such services.
8. The appeal property does not have any rear servicing arrangements, and there is limited provision for parking or unloading at the front of the premises because of the red route restrictions on Trinity Road. These conditions would remain unchanged.
9. The proposed commercial unit would have a floor area of around 16m² which would be a substantial reduction in the amount of commercial floorspace available for potential occupiers and result in a very small unit. The size of the refurbished unit may lend itself to lower running costs and to some businesses, but there is no substantive evidence of any potential interest, marketing or whether the running costs would indeed be more favourable. Nor is there any analysis to support the appellant's view that the proposed unit would broaden the mix of spaces on offer. I consider the size of the unit, which would offer little or no provision to store goods for example, allied to the existing servicing and parking restrictions, would narrow the pool of the potential occupiers considerably to the extent that I am not satisfied that there is not a reasonable prospect of the building being used to provide such services.
10. The terrace is within a designated 'Other' Shopping Parade on the western fringes of Tooting Bec Local Centre. This designation is at the lower end of the Council's hierarchy of shopping frontages that make up the Local Centre. In order of importance, they comprise 'Core', 'Secondary' and then 'Other' frontages. There may not be any definition of what constitutes a key shopping area, but Other frontages provide complimentary uses to the shopping function of the Core and Secondary shopping frontages and contribute to the overall vitality and viability of town and local centres. Furthermore, the appellant does not dispute the Council's point that Core Strategy Policy PL8(f) states that the "nine local centres will continue to be promoted as local shopping centres, suitable for a wide range of services and facilities, supporting the overall provision of shopping facilities in the borough. As such, I consider that the site is part of a key local shopping area.
11. The appellant states that the Local Centre includes a number of vacant premises. This is not disputed by the Council and I have no reason to disagree based on what I saw on site. The appellant also states that the proposal would cause an insignificant impact due to the amount of retail premises in the Core and Secondary shopping parades. However, the supporting text to Policy

DTMS2 of the Development Management Policies Document explains that these locations are appropriate for offices, community and evening uses as they contribute to town centre vitality and viability. The unit is not therefore just bound to a retail use and the size of the proposed unit is likely to affect it being occupied by a variety of complementary uses in the immediate and longer term. This could mean that the unit is vacant, which would have an unacceptable effect on the sustainability of the key shopping area.

Conclusion

12. Whilst the proposal may retain a ground floor commercial use and a shop front, I conclude that it would be undesirable for the building to change to a use falling within Class C3. This is because its part loss of the commercial unit would undermine the sustainability of the Local Centre as a whole. There is also no substantive evidence to suggest that the unit could not be used for commercial, business and service uses in the future. The proposal therefore fails to satisfy the conditions of a prior approval under this class of the GPDO.
13. For the reasons given, I conclude that the appeal should be dismissed.

Andrew McGlone

INSPECTOR