



Appeal Decision

Site Visit made on 7 June 2021

by M Ollerenshaw BSc (Hons) MTPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 January 2022

Appeal Ref: APP/E5330/W/21/3266884

Ground floor, 60 Charlton Church Lane, Charlton SE7 7AB

- 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) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr D Levy of AAA Premier Investments Ltd against the decision of the Council of the Royal Borough of Greenwich.
 - The application Ref 20/3380/PN2, dated 5 November 2020, was refused by notice dated 22 December 2020.
 - The development proposed is described on the application form as 'Change of use of ground floor from Class A1 shop to form 2 apartments (Class C3) including external alterations'.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The appellant submitted an amended plan as part of the appeal¹, which seeks to correct the discrepancies between the existing and proposed floor plans and elevations which featured on the original plans. The amended plan did not form part of the scheme that the Council made its decision upon. However, I consider that no one would be prejudiced by my acceptance of this plan as the amendments relate principally to corrections and are very minor in nature.
3. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force. Various classes, including A1, were replaced by Class E in Part A of Schedule 2. Class MA now refers to 'commercial, business and service uses to dwellinghouses'.
4. However, the application was made under Class M as it stood immediately before 1 August 2021 and sought prior approval for a change of use of the building from a use falling within Class A1 (shops) to a use falling within Class C3 (dwellinghouses) and for building operations reasonably necessary for the conversion. That development is no longer permitted by any class of the GPDO; the closest equivalent is Class MA which does not permit any associated development. It is therefore necessary for me to assess the proposal on the basis of the GPDO in force immediately before 1 August 2021 and against the conditions in respect of former Class M.

¹ Drawing ref A.23 dated 13 January 2021

5. In so far as they relate to considerations under Class M, I have had regard to the policies of the Royal Greenwich Local Plan: Core Strategy (2014) (CS), as well as the new London Plan published in March 2021, upon which the main parties were given the opportunity to comment.

Main issues

6. The main issues are whether or not the proposal would be permitted development, and if it is permitted development, whether or not it would be undesirable having regard to the effect on the sustainability of a key shopping area.

Reasons

Permitted development

7. The appeal site comprises a retail shop on the ground floor of a terraced property on the western side of Charlton Church Lane. The property was last used for the sale of musical instruments and has, as I understand it, been vacant for around four years. It is proposed to convert the premises into two apartments with associated internal and external alterations.
8. The Council has referred to significant discrepancies between the existing and proposed floor plans and elevations which meant that the Council were unable to determine whether the proposal complied with the relevant requirements of Schedule 2, Part 3, Class M. It is criterion M.1 (f) and conditions M.2 (1) (e) and (f) which are in dispute.
9. Criterion M.1 (f) specifies that development should not consist of demolition, other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses). The amended plan indicates that some internal walls between the shop and staff areas would be removed as would the existing shop window. These works would in my view be 'reasonably necessary' to facilitate the conversion of the building to residential use and would not amount to substantial demolition; internal spaces in commercial units are often larger than that which would be typically associated with dwellings.
10. Conditions under M.2 (1) require the developer to apply to the local planning authority for determination as to whether prior approval will be required as to a number of matters. Those of relevance to this appeal are (e) the design or external appearance of the building, and (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses.
11. The amended plan does not suggest any significant alteration to the exterior of the building. A new window is proposed to the front elevation which would be smaller than the existing window which it would replace. However, this would not be harmful to the design or appearance of the building given the variety of window designs along this stretch of Charlton Church Lane.
12. The plan shows a large window to the front elevation which would serve the open plan layout for studio 1, and two windows to the rear elevation to serve studio 2, one to the open plan living area and a separate window serving the bedroom. On this basis I consider that the habitable rooms of the proposed apartments would be provided with adequate natural light.

13. Taking all of the above into account, I find the proposal complies with criterion M.1 (f) and conditions M.2 (1) (e) and (f). Therefore, I conclude that the proposal is development permitted under Schedule 2, Part 3, Class M of the GPDO.

Sustainability of the key shopping area

14. The appeal site forms part of a neighbourhood parade of 27 units that stretches from the railway station to the north to the junction with Nadine Street to the south. The ground floors are generally in retail and other commercial uses with residential uses above. The parade occupies parts of both frontages and is interspersed with residential dwellings.
15. From my observations, the neighbourhood parade offers a wide variety of business uses which are likely to be valued by local residents, including those with reduced mobility. I therefore consider that the site falls within a key shopping area for the purposes of paragraph M.2(1)(d)(ii). I note that was also the conclusion reached by the Inspector who determined the previous appeal² relating to this site, and that the appellant's principal argument is that the scheme would not be detrimental rather than the parade itself should not be considered as a key shopping area within the terms of the legislation.
16. There is no disagreement between the parties that the loss of the retail unit would not result in inadequate provision of services of the sort that may be provided by the use of the premises as a retail unit. This is because there are numerous other Class A1 and A2 units along Charlton Church Lane and elsewhere in the local area. The matter in dispute is whether it would be 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 on the sustainability of a key shopping area.
17. The Council's 2017 survey of the neighbourhood parade identified three vacant units (Nos 28, 54 and 64) and one in residential use (No 66). The appellant has undertaken their own survey which found that there are currently four vacant units (Nos 50, 56, 62 and 64). In my view, neither survey suggests a high vacancy rate; there is instead relatively strong demand for commercial premises here. During my site visit I observed that the majority of the units along this part of the shopping area were in use, and although some appeared to be closed or shuttered, this was relatively limited in extent.
18. The appellant's marketing report includes details of viewings from July 2018 to December 2019. It indicates that two offers were received but there is no information on why those offers did not proceed any further. Whilst limited that does suggest some interest in the premises.
19. The updated marketing report³ states that the premises have been continuously marketed since the previous appeal decision on all existing platforms and a flexible approach in terms of use classes was included in the marketing brochure. The report explains that despite there being some interest no offers were received.
20. However, again, there is no information on the number of enquiries and the feedback from interested parties is summarised briefly. Furthermore, there is

² Ref APP/E5330/W/19/3233229

³ Live London Estates dated 20 October 2020

no clarity around which marketing platforms were used, the frequency of marketing or rental/sales values sought to provide assurance that these are reasonable in terms of the area. Consequently, whilst I acknowledge that the premises have been vacant for a prolonged period, there is no firm evidence before me that there is no reasonable prospect of the premises being used for retail use in the future.

21. In light of the Covid-19 pandemic, the appellant considers that the building is likely to remain vacant without an alternative non-commercial use. However, there is no specific evidence before me explaining how the pandemic has reduced the demand for retail or other business use in this particular location. I therefore attribute little weight to this consideration.
22. The Inspector who determined the previous appeal noted that there is already some evidence of residential uses having replaced commercial uses in close proximity to the appeal property. The introduction of another ground floor residential use within the parade would inevitably detract from the role and function of the parade to some extent. Although not determinative in relation to this appeal, I find that the proposal would conflict with Policy TC7 of the CS, which, amongst other things, seeks to resist the change of use of existing ground floor Class A1 units unless the proposal would reinforce the function of the neighbourhood parade in serving the day to day needs of local residents.
23. The appellant argues that since the premises are now effectively a Class E use, the floorspace could be changed to a number of other uses within that class without the need for planning permission or prior approval. However, those other potential uses would in my view be more likely to contribute to the sustainability of the neighbourhood parade in terms of footfall compared with the appeal proposal. This matter therefore carries little weight.
24. I conclude that the proposal would have a harmful effect on the sustainability of the key shopping area. It would, as a result, be undesirable for the building to change to a use falling within Class C3 in the form of two apartments. The proposal would therefore fail to satisfy the conditions of a prior approval under Class M.2(1)(d)(ii) of the GPDO.

Other Matters

25. The proposal would contribute to the housing supply in the area, the benefit of which is implicitly recognised in the permitted development rights for such conversion. However, this does not justify approval of a scheme which is likely to result in harm to the sustainability of the key shopping area.

Conclusion

26. The appeal should therefore be dismissed.

M Ollerenshaw

INSPECTOR