



Appeal Decision

Site visit made on 2 August 2022

by Colin Cresswell BSc (Hons) MA MBA MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 15 August 2022

Appeal Ref: APP/F5540/W/21/3288666

185 Hanworth Road, Hounslow TW3 3TT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Atif Muhammad against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00553/185/PA1, dated 12 July 2021, was refused by notice dated 20 September 2021.
 - The development proposed is described as "Conversion and change of use of the retail unit to Cafe/Takeaway".
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposed change of use is permitted under the terms of the GPDO¹.

Reasons

3. The appeal concerns a ground floor commercial unit facing Hanworth Road. The Council Report says that there is shop, hair and beauty business on the ground floor of the unit. According to the Use Classes Order², this activity is falls under Class E (Commercial, Business and Service).
4. However, when I visited the site, I saw that the unit is now being occupied by a hot food outlet. This was closed at the time of my visit, with a shutter covering up the frontage. As such, it was not possible for me to determine if the unit is primarily being used for a restaurant or a takeaway. The Council has subsequently confirmed that no change of use has been permitted on the site since the original application was made. Therefore, on the strength of the evidence before me in this appeal, I consider the existing use of the unit to fall under Class E of the Use Classes Order.
5. A change of use from one to another which falls into the same Use Class is not development that requires planning permission. As well as retail, Class E also includes sale of food and drink for consumption (mostly) on the premises. Therefore, changing the use of the unit to a café would be permissible.

¹ Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).

² The Town and Country Planning (Use Classes) Order 1987 (as amended).

6. However, the proposal is described on the application form as a café/takeaway. Takeaways fall under the 'Sui Generis' Use Class and are not part of Class E. Because the proposal would involve changing from Class E to a Sui Generis use it would require planning permission.
7. I have considered the appellant's argument that the unit would be mainly used for the sale of food which is consumed on the premises. However, relatively little information has been provided to explain how the business would operate. The plans show limited seating and the doorway to the premises is labelled 'entrance to takeaway'. Therefore, based on the evidence provided, it seems to me that the unit would mainly be used as a takeaway, with the option of sitting down inside. It would therefore constitute a Sui Generis use.
8. The GDPO does not automatically allow the change of use being proposed, which is from Class E to Sui Generis (a takeaway). While I do appreciate the appellant's wish to operate a business from the site, the application was made under the terms of the GDPO and so my assessment of the scheme is restricted to what is covered by that particular legislation. It would be open to the appellant to instead apply for planning permission, where the merits of the proposal could be fully considered.

Conclusion

9. For the reasons given above, I conclude that the proposed change of use is not permitted by the GPDO. The appeal is therefore dismissed.

Colin Cresswell

INSPECTOR