
Appeal Decision

Site visit made on 23 January 2024

by John Felgate BA(Hons) MA MRTPI

an Inspector appointed by the Secretary of State for levelling Up, Housing and Communities

Decision date: 30 January 2024

Appeal Ref: APP/Z5060/W/23/3322465
20 Church Street, Dagenham RM10 9UR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1), and Paragraph MA.2(2) of Schedule 2, Part 3, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr H Schneck against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 23/00476/PRIMA, dated 16 March 2023, was refused by notice dated 3 May 2023.
 - The development proposed is change of use of the ground floor, from shop within Use Class E¹, to a self-contained flat within Class C3.
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Decision

1. The appeal is dismissed.

Preliminary matter

2. I understand that the appeal site is also the subject of an appeal against an enforcement notice relating to the use of an outbuilding. However, as far as I am aware, that is an entirely separate matter. I have dealt with the present appeal on its own merits.

Procedural matters and main issues

3. Under Article 3(1) and Class MA of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), planning permission is granted for changes of use from commercial, business and service uses to dwellinghouses, subject to certain limitations and conditions, as set out in paragraphs MA.1 and MA.2. Paragraph MA.2(2) provides that a determination is required as to whether prior approval is required in respect of various specified matters. In the present case, the Council has determined that prior approval is required, and refused, for three of these matters:
 - the impact of the change of use on the character and sustainability of the Conservation Area within which the site falls;
 - the provision of adequate natural light within all habitable rooms;
 - and the impact on future occupiers of the development arising from noise from other commercial premises.

¹ Of the Town and Country Planning (Use Classes) Order 1987

4. It is not disputed that none of the preclusions in GPDO Paragraph MA.1 applies. Nor is it argued by any party that any of the other matters listed in paragraph MA.2 is relevant in this case. The issues for this appeal therefore relate solely to the three matters set out above.

Reasons for the decision

Effects on the Conservation Area

5. No 20 Church Street lies within the Dagenham Village Conservation Area (the CA). The CA comprises the historic core of the original village, based on the mediaeval Church of St Peter and St Paul (listed Grade II*), the 15th century Cross Keys Inn (Grade II), and the locally listed 17th century Old Vicarage, all of these being set in Crown Street. Church Street is a continuation of Crown Street, and evidently once formed the main street through the area. At Church Street's eastern end, close to the church, there is a shopping parade from the early 20th century, which includes the appeal property, and also a mixture of other more recent commercial and residential buildings. These include the locally listed, 1930s Petronne House, a former bank. Immediately to the south is Church Lane, where there is the locally listed, mid-19th century former National School, and the slightly later schoolmaster's house.
6. Large parts of the surrounding area have been redeveloped, not always sympathetically, but in these surviving older buildings and streets, several key elements of the historic core remain intact. The CA Appraisal Report states that the area's special interest relates to its origins and historical associations. From this, and from my own observations, it seems to me that the CA's significance as a heritage asset lies principally in the evidential value of the surviving older buildings, and in what is left of the original street pattern, and in particular what these reveal with regard to historic architectural styles and building techniques, and the evolution of the local settlement pattern.
7. The terrace of nine units which includes the appeal property was evidently designed for use as retail shops, with residential accommodation above. Given this intended use, and its central location in relation to the church, school and pub, it seems clear that the shopping parade would have been an important focus for commercial activity and interaction, at the heart of the village community. Consequently, to my mind, the commercial land use of the units in this parade contributes positively to the CA's historic interest and significance. A residential use would fail to support or sustain this role, and thus would detract from the CA's character and sustainability.
8. I note that the ground floor of the appeal property has been empty since November 2022. I also saw on my visit that only one or two of the other units appear to be now in retail use; some units were vacant, and some shuttered. Both pedestrian footfall and passing traffic were sparse. It is well known that current trends in retailing are not encouraging, especially for premises in secondary locations such as this. I therefore accept that there is considerable doubt as regards the prospects for any new lettings of the appeal property for retail purposes as such.
9. But nevertheless, the new Class E permits changes from retail to a wide range of other commercial and community-related uses; and indeed at the time of my visit, I saw that some other units in the parade were either currently being used, or had been previously, as a housing office, a care agency, an events

management company, and a nursery. In the present case there is nothing to suggest that the appeal premises could not accommodate an alternative use within the terms of Class E. To my mind, a commercial or community use of this nature would come far closer than a residential use to reflecting the historic role of this part of Church Street, and would therefore be likely to be better able preserve this element of the CA's character. The existence of some apparent scope for exploring an alternative, less damaging use reinforces my view that the use now proposed would cause unacceptable harm to the CA.

10. I appreciate that the appeal scheme does not propose any physical alterations to the exterior of the building. However, the change to residential use would be likely to be evident, from the lack of signage, and from the need to curtain or obscure the main front windows; and also from the absence of any of the comings and goings that would normally be expected with most types of commercial or similar use. In any event, the harm that I have identified would arise from the change in the use itself, rather than any specific physical manifestations.
11. For these reasons, I conclude that the proposed change of use would have a significantly adverse impact on the character and sustainability of the Dagenham Village CA. in the circumstances of this case, as set out above, this impact justifies the refusal of prior approval for the development.

Natural light

12. The expert report submitted by the appellant demonstrates that both of the proposed habitable rooms would receive sufficient natural daylight, measured on either the daylight factor or the illuminance method, to comply with the relevant guidance in both BS EN 17037 and Appendix C of BR 209(2022). This evidence has not been challenged.
13. In addition, on my visit, I saw that even on a dull day, the level of light appeared acceptable, especially in the main front room which would become the living room and kitchen. In the case of the rear room, which would be the bedroom, although the three existing windows are quite close to various outbuildings, those buildings are single-storey and flat-roofed, and thus do not significantly obstruct light. It also seems likely that the light level in this rear room would be further improved by the proposed internal works, including the removal of some existing partition walls.
14. I therefore find that the new dwelling unit would provide adequate light for its residential occupiers.

Noise

15. At the time of my visit, during the middle of the morning, the area was quite quiet, with no noticeable noise from any nearby premises or uses. This might not be so at all times, and indeed the nature of the surrounding uses could change. However, I note that a condition has been proposed, requiring the installation of acoustic protection measures, in accordance with a scheme to be agreed. I see no reason why such a condition would not be sufficient to ensure that any likely noise could be adequately mitigated. I therefore consider that the proposed unit would be capable of providing acceptable living conditions in this regard.

Conclusion

16. For the reasons given above, I have found that the proposed change of use would cause unacceptable harm to the character and sustainability of the Dagenham Village CA. Although the new dwelling would provide adequate living conditions with regard to natural light and noise, this does not overcome or outweigh the harm that I have identified.
17. I therefore conclude that the Council's decision to refuse prior approval in respect of the effects on the CA was justified. Accordingly, the appeal is dismissed.

J Felgate

INSPECTOR