

Appeal Decision

Site visit made on 23 February 2017

by **S M Holden BSc MSc CEng MICE TPP FCIHT MRTPI**

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

Decision date: 6th March 2017

Appeal Ref: APP/T1410/W/16/3164156

12, The Broadway, Lindfield Road, Hampden Park, Eastbourne BN22 0AS

- 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).
 - The appeal is made by Mr Barrie Gibson against the decision of Eastbourne Borough Council.
 - The application Ref PC/160924, dated 23 August 2016, was refused by notice dated 6 October 2016.
 - The development proposed is a change of use of a premises from A1 to C3 (dwelling houses) under Prior Approval class M of GPDO as amended 2015.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development was not included on the application form, which referred to the planning statement attached to the application. This statement described the proposal as a: "change of use of a premises from A1 to C3 (dwelling houses) under Prior Approval class M of GPDO as amended 2015". I have used this description in this decision.
 3. The Council accepts that the proposal meets the requirements of paragraph M.1 of the GPDO and therefore it constitutes Permitted Development under Class M, subject to the prior approval of certain matters. I have no evidence to lead me to a different conclusion.
 4. However, for development to be permitted by Class M of the GPDO, it is also subject to a series of conditions requiring prior approval of the Council in relation to five matters. Four of these, which relate to transport and highways, contamination risk, flood risk and design, are not in contention. The matter in dispute in this case relates to the requirement set out in criterion (d) paragraph M.2.(1) of the GPDO which states that it is for the local planning authority to determine "whether it is 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". These impacts relate either (i) to the adequate provision of services of the sort that may be provided by a building falling within Class A1(shops), but only where there is a reasonable prospect of the building being used to provide such services or (ii) where the building is located within a key shopping area, on the sustainability of that shopping area.
-

Main Issue

5. I therefore consider the main issue is whether or not it would be undesirable for the building to change to a use falling within Class C3 (dwellinghouse), having regard to the effect on the sustainability of the shopping area and the prospects of the unit continuing to be used as an A1 shop.

Reasons

6. The appeal property, No 12, is a ground floor shop within a small, purpose-built parade of shops in the Hampden Park area of Eastbourne. It was previously operating as a tattoo parlour. I understand the unit has been empty for some time, although there were no precise details given relating to when trading ceased.
7. I will deal firstly with criterion (ii) set out in paragraph M.2(1)(d) of the GPDO which seeks to assess the desirability, or otherwise, of a change of use of the building due to its location in a key shopping area. The GPDO does not define a 'key shopping area'. However, the Core Strategy¹ sets out a hierarchy of shopping centres throughout the Borough. The supporting text explains that the primary purpose of identifying the Borough's shopping centres is to ensure that everyone has access to a good range of shops. The development plan therefore seeks to sustain and strengthen local centres in order to provide services that are close to where people live.
8. Hampden Park (Broadway) has been designated as a Neighbourhood Shopping Centre (NSC). NSCs are recognised as small-scale centres, below local and district centres, which provide basic daily shopping needs. They primarily serve people within 400m of the centre and comprise predominantly A1 uses with a limited number of A2, A3 and A5 uses.
9. The Hampden Park (Broadway) centre lies within a large housing estate and comprises eleven ground floor retail units with residential accommodation above. All the units have retained their shop fronts, although some are now operating as A3 and A5 uses. Only No 12 appeared to be vacant at the time of my site visit. The purpose-built nature of the development, with the two rows of shops facing each other and on-street parking available, gives this neighbourhood centre a sense of cohesion and separates it from the surrounding residential area. It appears to be performing the role of a locally based shopping facility, as it is highly accessible to those who live in the surrounding area on foot, by bike or using a car. This level of accessibility is an asset, even though the services provided within the centre are limited.
10. No 12 is located at one end of the parade of shops. There are no residential uses on the ground floor elsewhere in the NSC. Therefore, if No 12 was converted into a house it would fundamentally change the character of the parade of shops as a whole. A residential use at ground floor level would be out of keeping with the centre and would directly conflict with the surrounding uses. This would be detrimental to both the functioning and the appearance of the NSC. Contrary to the aims of the Core Strategy to strengthen such centres, it would introduce a sense of decline which would reduce the sustainability of the NSC in the longer term. The proposed conversion therefore fails to meet the test set out in Paragraph M.2.(1)(d)(ii) of the GPDO.

¹ Eastbourne Core Strategy Local Plan – adopted February 2013

11. I will now move on to consider criterion (i) set out in Paragraph M.2.(1)(d)(i) of the GPDO. This suggests that a change to residential use may be undesirable because it would impact on the adequate provision of services in a particular locality. However, the GPDO goes on to state that change should only be resisted where there is a reasonable prospect of the building being used to provide services that would fall within Class A1 (shops) or Class A2 (financial and professional services).
12. I am aware that immediately to the north of the existing NSC the former Parkfield public house has been converted into a Co-op convenience store. This followed the grant of a Lawful Development Certificate in 2012. Although this building is close to the NSC it has its own parking area and therefore functions independently of the shopping area. However, like the NSC this store provides residents of the estate with access to some of their needs for day to day services. The appellant contends that this has adversely affected the ability of the units within the NSC to trade effectively and has reduced the likelihood of No 12 being able to continue to operate as an A1 unit.
13. I understand that No 12 has been empty for a 'long time'. However, no further details of the length of this vacant period were provided. Neither was there any evidence presented to demonstrate what, if any, attempts had been made to market the unit at an appropriate price. I therefore cannot be certain that the unit could not operate successfully in the future, thereby increasing the range of goods and services available within this local community. I accept that the presence of the nearby Co-op means that the loss of this particular unit to A1 uses would not significantly affect the provision of services likely to be available to local residents near the Hampden Park (Broadway) NSC. However, prior approval for the change of use is not supported where there is a reasonable prospect of the building being used to provide other services falling within Class A1(shops) of the Schedule. In the absence of evidence to the contrary, the proposal therefore fails to meet the test set out in paragraph M.2(1)(d)(i) of the GPDO.

Conclusions

14. Taking all these factors into account, I conclude that it would be undesirable for the building to change to a use falling within Class C3 (dwellinghouse). This is because its loss would undermine the sustainability of this purpose-built NSC as a whole. In addition there was no substantive evidence to suggest that the unit could not be used for A1 uses in the future. The proposal therefore fails to satisfy the conditions of a prior approval under Class M of the GPDO.
15. For this reason, I conclude that the appeal should be dismissed.

Sheila Holden

INSPECTOR