
Appeal Decision

Site visit made on 13 September 2016

by Helen Cassini BSc(Hons) DipTP MRTPI

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

Decision date: 03 October 2016

Appeal Ref: APP/G5750/W/16/3151391
509 Katherine Road, London E7 8DR

- 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 Bipinchandra Tailor against the decision of the Council of the London Borough of Newham.
 - The application Ref 16/00636/PRECOU, dated 1 March 2016, was refused by notice dated 26 April 2016.
 - The development proposed is described as 'The proposed development is change of use of Part of A2 (Financial and Professional Services) into C3 (Residential dwelling). The proposal is a car-free development. The site is not located in a flood risk area'.
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Decision

1. The appeal is dismissed.

Background and Main Issues

2. Class M of the General Permitted Development Order (England) Order 2015 (as amended) (the GPDO) permits a change of use from a use falling within Class A2 (financial and professional services) to a use falling within Class C3 (dwellinghouses), and building operations reasonably necessary to convert the building to such a use subject to a number of criteria being met. In refusing the application, the Council stated that the proposal would not result in a use falling within Class C3 as required by the provisions of Paragraph M(a)(i) of the GPDO.
3. Schedule 2, Part 3, Paragraph W of the GPDO sets out the prior approval process. It states¹ that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any condition, limitations or restrictions specified as being applicable to the development in question.
4. Accordingly, I consider the main issues to be:
 - (i) Whether or not the proposal meets the requirements of permitted development under the GPDO; and

¹ Paragraph W.(3)

- (ii) If so, whether or not sufficient information has been provided to comply with the conditions and limitations of paragraph M.2 of the GPDO.

Reasons

Permitted development criteria

5. The appeal site is part of a wider terrace which generally comprises of retail and commercial units on the ground floor with residential units on the first floor. The appeal property comprises of a vacant office unit on the ground floor with storage in the basement and residential accommodation on the first floor. The existing first floor residential unit is accessed from a separate front door at ground floor level.
6. The proposal seeks prior approval for the change of use of part of the ground floor, which currently contains offices, a storage room, a kitchen and garage, to a self-contained 3 bedroom residential unit. The creation of the residential dwelling would involve mainly internal works, with the erection of a new wall between the commercial and residential unit which would physically separate the two units.
7. The GPDO grants planning permission for the changes of use falling within Class M subject to a number of conditions listed at paragraph M.1. Although the site was vacant at the time of my visit, it was clear that from the office furniture and general layout that the last use of the unit fell within Class A2. Furthermore, within the appellant's evidence it was confirmed that the proposal would not exceed the 150 square metre threshold and I have no reason before me not to concur.
8. Sub-paragraph (e) to paragraph M.1 states that development is not permitted if the proposal would result in the external dimension of the building extending beyond the existing external dimensions. The submitted plans confirm that the external dimensions would not exceed those of the existing. In relation to sub-paragraph (f) I acknowledge that some internal demolition would be necessary but this is likely to be minimal and reasonably necessary for the conversion to a dwelling house. Evidence submitted by the Council confirms that the proposal is not located within one of the areas listed at sub-paragraph (g).
9. Within their submitted evidence, the Council confirmed they did not undertake an assessment with regards to either paragraph M.1 or M.2. However, there is no indication from the evidence before me that the proposal would not amount to permitted development by reason of any of the limitations contained in paragraph M.1.
10. For the reasons above I therefore consider that the proposal meets the requirements of Class M, Part 3, Schedule 2 of the GPDO.

Conditions and limitations

11. Notwithstanding my above findings, although the circumstances set out in paragraph M.1 are met, the proposals for the change of use also have to meet the conditions set out in paragraph M.2.
12. Paragraph M.2 (1) requires that relevant development, such as that before me, is subject to prior approval in respect of (a) transport and highway impacts of

- the development; (b) contamination risks in relation to the building; (c) flooding risks in relation to the building; (d) in broad terms, the impact on local shopping provision and (e) the design or external appearance of the building.
13. The appellant has stated that the site is not located within a flood risk area and that the development would be car free. However, there is no substantive evidence before me that demonstrates compliance with the requirements of sub-paragraphs (b) contamination, or (d) the effect that the reduction in commercial floor space would have on local shopping provision.
14. Moreover, paragraph M.2 (3) states that development under Class M is permitted subject to the condition that a building which has changed use under Class M is to be used as a dwelling house within the meaning of Class C3 of the Schedule to the Use Classes Order and for no other purpose, except to the extent that the other purpose is ancillary to the primary use as such a dwelling house.
15. The interpretation of the term 'building' is defined with Section 2 of the GPDO as including any structure or erection and, except in Class F of Part 2, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16 and Class T of Part 19, of Schedule 2, includes any part of a building.
16. Having reached the conclusion above, the proposal would result in the development of a separate planning unit within its own right. As such, the conversion of part of the existing commercial unit to a residential unit will form a new, distinct building which is proposed to be used solely as a dwelling house.

Conclusion

17. Notwithstanding my conclusions on whether the proposal constitutes permitted development and compliance with the condition at paragraph M.2 (3), insufficient information has been provided with regards to paragraph M.2 (1) to demonstrate that the proposal would be permitted development. In terms of the main issues this reason is leading me to find that the appeal should be dismissed.
18. Accordingly, for the reasons set out above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Helen Cassini

INSPECTOR