
Appeal Decision

Site visit made on 17 January 2017

by A A Phillips BA(Hons) DipTP MTP MRTPI

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

Decision date: 9 February 2017

Appeal Ref: APP/V5570/W/16/3161896

Basement and Ground Floor, 12 Barnsbury Road, Islington N1 0HB

- 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 O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Jonathan Hager against the decision of the Council of the London Borough of Islington.
 - The application Ref P2016/2205/PRA, dated 29 April 2016, was refused by notice dated 5 July 2016.
 - The development proposed is described as 'a change of use from B1 offices to residential use (self-contained duplex apartment)'.
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Decision

1. The appeal is dismissed.

Main Issue

2. I consider the main issue to be whether the proposal satisfies the requirements of the 2015 GPDO with regard to being permitted development for a change of use from office (Use Class B1(a)) to a residential unit (Use Class C3), having particular regard to whether the basement and ground floor of the appeal building can be considered to have or have had a B1(a) use.

Reasons

3. Among other reasons, the application for prior approval for the proposed change of use of the basement and ground floor of the building from Class B1(a) to Class C3 was refused by the Council for the reason that it did not have a B1(a) use and that as such the proposed change of use is not permitted development.
 4. There has been no subsequent planning permission or certificate of lawfulness granted for any change of use since permission reference 84/1966 was approved in 1985 for a change of use of the ground floor and basement shop to an education advice centre for adults working or living in Islington. No evidence has been submitted to demonstrate that this change of use took place. I understand that the property has been recently marketed as a shop and that the Valuation Office Agency's web site lists the property as a shop and premises and it has been rated for business purposes as a shop since at least 2010.
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5. I also understand that the property has previously been used by the Islington Somali Forum / Somali Speakers Association, but it is unclear under which Use Class such use would fall, if any.
6. Additional documentation submitted with the appellant's statement of case includes a marketing document 'The Islington Portfolio' and an article from Property Week dated 25 May 2007. The marketing document contains ambiguity with respect to the use of the ground floor and basement of the appeal property, stating that the planning use is for retail, but also that it is currently in use as an office and advice centre. It is not robust evidence of B1(a) use of the premises. The Property Week article does not specifically refer to the appeal site and so does not provide any evidence to support the B1(a) use.
7. To summarise, the appellant's evidence is insufficiently precise and therefore there is a significant doubt with respect to the existing lawful use of the appeal site. The original application for prior approval and subsequent additional information submitted with the appeal does not demonstrate on the balance of probability that the building is currently in B1(a) use or that on 29 May 2013 its use was within Use Class B1(a). Consequently, the proposed change of use would not meet the requirements of the 2015 GPDO for it to be considered as permitted development under Class O of Schedule 2, Part 3 in respect of a change of use from B1(a) to C3 dwelling house.
8. Although in October 2015 the Council's Duty Planner advised that the use as an education centre falls within the B1 Use Class, the correspondence does not confirm whether this site has been used as an education centre or that such use would fall within the B1(a) Use Class. Such advice was provided on a non-binding informal basis in any case.
9. I have taken account of all the matters raised in the evidence including with respect to noise and highways. However, neither this nor any of the other matters raised would overcome the proposal's failure to meet the criteria set out in the 2015 GPDO such that it could be considered as permitted development for assessment under the prior approval process. Furthermore, I consider that the local planning authority has acted in line with the proactive approach encouraged by the National Planning Policy Framework.

Conclusion

10. For the reasons given above and taking into account other matters raised I conclude that the appeal should be dismissed.

Alastair Phillips

INSPECTOR