
Appeal Decision

Site visit made on 31 October 2017

by David Cliff BA Hons MSc MRTPI

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

Decision date: 29th November 2017

Appeal Ref: APP/V5570/W/17/3179305
477 Hornsey Road, London, N19 3QL

- 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) Order 2015 (as amended).
 - The appeal is made by Mr Jacob Green (Servus (bf) Ltd) against the decision of the Council of the London Borough of Islington.
 - The application Ref P2017/0729/PRA, dated 20 February 2017, was refused by notice dated 7 April 2017.
 - The development proposed is 'prior approval for change of use of A1 retail space at basement level to form C3 self-contained unit (1 bedroom 2 person)'.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3 and Schedule 2, Part 3, Class M (a & b) of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (GPDO) for change of use of A1 retail space at basement level to form C3 self-contained unit (1 bedroom 2 person) at 477 Hornsey Road, London, N19 3QL in accordance with the details submitted pursuant to Article 3 and Schedule 2, Part 3, Class M of the GPDO.

Preliminary Matter

2. I have based my decision on drawing numbers GAL249(PC)001 and GAL249(PC)002A as used in the Council's determination of the application. For the avoidance of doubt the approval does not include the originally proposed single storey rear extension which was subsequently deleted from the proposals.

Main Issues

3. The main issue is whether the proposal would be undesirable having regard to the impact of the proposed change of use on the adequate provision of services and the sustainability of the shopping area.

Reasons

4. The appeal site is located within the Hornsey Road North Local Shopping Area. The Council considers this to be a key shopping area. The appellant states that the retail unit has been vacant since 2011.

5. The appellant argues that the shopping area does not amount to a 'key shopping area' as referred to by the GPDO. Whilst located lower down the retail hierarchy in the development plan, it appears to still provide a valuable overall retail and service offering for the surrounding community. For the purposes of this appeal and from the evidence before me I have considered it as being a key shopping area.
6. The Council refers to policy DM4.6 of its Development Management Policies 2013 which in seeking to protect ground floor retail units includes a requirement for the submission of evidence of marketing. No such information has been provided in this case.
7. As this is a prior approval appeal, it should not be determined on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004, or as though the development plan must be applied. However, development plan policies may be relevant insofar as they relate to the matters under consideration.
8. In this case the proposal would retain the large majority of the existing ground floor retail use. Whilst the associated retail use of the basement (including its possible use for associated storage) would be lost, there seems to me no reason why the retained ground floor retail use could not be viable in the future. Space for a storage area and staff office is indicated on the proposed plans towards the rear of the refurbished ground floor. No persuasive evidence has been provided that suggests the retained A1 floor space would not be viable. The primacy of retail shops within the shopping area would not be harmed.
9. The proposal would not significantly change the appearance of the front elevation of the property, with a shop front being retained serving the ground floor use. There appear to be existing residential units above the commercial uses at ground floor within the frontage. Whilst each case needs to be determined on its own merits, given my findings regarding the vitality of the ground floor retail floor space, there appears to be no reason in principle why C3 units cannot coexist with commercial premises within the Local Shopping Area without adversely affecting its overall vitality, viability and retail function. I have therefore given little weight to the Council's concern regarding potential cumulative impacts.
10. I have also considered the relevance of policies CS13 and CS14 of the Core Strategy 2011 and the National Planning Policy Framework. However, taking account of my reasoning above, these do not alter my overall conclusions on this matter.
11. The proposal would not be undesirable having regard to the impact of the proposed change of use on the adequate provision of services or the sustainability of the shopping area.

Other matters

12. Representations have been received regarding day/sunlight and the provision of poor housing. The Council has not objected on such a basis. I acknowledge that design is a matter for consideration under Schedule 2, Part 3, Class M of the GPDO. However, whilst the proposed basement flat would not enjoy the same standard of light or outlook as most flats on other floors, from the details

provided I do not consider that any significant design related harm would result in this case.

13. The Council has suggested several conditions should the appeal be allowed. A time limit condition is not necessary as it is already a requirement of paragraph M.2 (3) (a) that the development must be completed within a period of 3 years starting with the prior approval date. Furthermore, the Council's second suggested condition is covered by the requirement of paragraph M.2 (3) (b). An approved plans condition is not necessary for prior approval decisions.
14. The Council has also suggested a condition restricting eligibility for residents of the development to obtain an on street parking permit. Transport and highway impacts are matters for consideration under prior approval. The Council Officer's report refers to preventing an obstruction to the highway and to minimise the number of cars on the road thereby ensuring less traffic congestion. However, the site has good access to public transport, shops and facilities and therefore trip generation would be likely to be very low. There are existing on street parking controls to the front of the premises. There is no persuasive evidence that, should a future occupier wish to own a car, it would cause a harmful obstruction to traffic. There is no evidence provided to suggest that parking is a particular problem in the vicinity of the site. I note the policies referred to by the Council. However, in this case it would not be either necessary or reasonable, in the interests of transport or highway impacts, to impose a restriction on eligibility for parking permits in this case. It has not been necessary therefore to consider further the Council's suggested condition any further against the relevant tests and the Planning Practice Guidance.

Conclusion

15. For the reasons given above, and having had regard to all other matters, I conclude that the appeal should be allowed and prior approval granted.
16. The planning permission granted under Article 3 and Schedule 2, Part 3, Class M of the GPDO is subject to the conditions set out in paragraph M.2(3) which specify that (a) the development must be completed within a period of 3 years starting with the prior approval date; and (b) that the part of the building which has changed use under Class M is to be used as a dwellinghouse 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 purposes is ancillary to the primary use as such a dwellinghouse.

David Cliff

INSPECTOR