



Appeal Decision

Site visit made on 12 November 2019

by N Holdsworth MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18 December 2019

Appeal Ref: APP/N5090/W/19/3234947

142 Gallants Farm Road, Barnet, EN4 8EL

- 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 George Georgiou against the decision of the Council of the London Borough of Barnet.
 - The application Ref 18/7593/PNJ, dated 18 December 2018, was refused by notice dated 12 February 2019.
 - The development proposed is change of use from A1 retail to C3 dwellinghouse at the ground floor shop.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) ("GPDO") for change of use from A1 retail to C3 dwellinghouse at the ground floor shop at 142 Gallants Farm Road, Barnet, EN4 8EL in accordance with the terms of the application 18/7593/PNJ, dated 18 December 2018, including the plan reference 300/18/02. This prior approval is granted subject to the following condition:
 - 1) No part of the development hereby approved shall be occupied until details of waste storage and cycle parking have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details approved under the terms of this condition. Once installed the waste and cycle parking facilities shall be retained for their intended purpose for the lifetime of the development.

Background and Main Issues

2. Schedule 2, Part 3, Class M of the GPDO provides for a permitted development right for the change of use of a building falling within use class A1 (shops) to dwelling houses. This is subject to limitations and conditions, as set out in subsequent paragraphs of Class M of the GPDO. The application that led to this appeal sought prior approval to determine whether the proposal was eligible for the permitted development right, and whether or not the limitations and conditions of Class M were met.
3. The site falls within a small parade of shops on Gallants Farm Road. The Council acknowledge that this does not constitute a key shopping area. Prior approval was refused on the basis that the proposal fails to meet the conditions set out in paragraph M.2(1)(d) of the GPDO, as in the Council's view it had not

been demonstrated that there is no reasonable prospect of the building being used to provide other services falling within the existing use class of the building. Accordingly, it was considered the proposal would be detrimental to the provision of retail services and is therefore undesirable. However, in all other respects, the evidence before me indicates the proposal meets the relevant legislative requirements set out in the GPDO.

4. The main issues in this appeal are therefore:

- i) Whether or not there is a reasonable prospect of the existing building being used for A1 (shops) purposes; and if so
- ii) Whether the proposal is undesirable, having regard to the relevant test set out in the GPDO.

Reasons

Reasonable prospect of existing building being used for A1 purposes

5. The existing unit appeared to be in use as a shop at the time of my site visit. Whilst the appellant has suggested that this use is not profitable, there is no detailed marketing or other substantive evidence presented to demonstrate that the continued use of the unit for retail purposes is not possible. Furthermore, it was apparent on my site visit that other similar sized premises continue to be occupied on this parade. Taking these circumstances into account, there appears to be a reasonable prospect of the existing building being continued to be used for A1 purposes.

Whether the change of use is undesirable

6. As there is a reasonable prospect of the building being used for A1 purposes, the first part of paragraph M.2 (1)(d)(i) is engaged. This requires an assessment of whether it is undesirable for the change of use to occur, having regard to the impact on the adequate provision of shops of the sort that may be provided by a building falling within Class A1 (shops).
7. In this case the change of use would only result in the loss of one unit on this purpose-built parade. Several other units would be retained, including 2 retail units¹. In consequence, the parade would still perform a retail function, serving residents in close vicinity of the site. Furthermore, the parade is around 0.75 kilometre from a larger range of shops and services in East Barnet. Consequently, the loss of a single retail unit on this parade would be of very little significance given the alternative facilities both on the parade and in the wider vicinity of the site, which would be retained.
8. I have had regard to the concern that the loss of retail frontage would diminish the vitality and commercial attractiveness of this parade, along with concern about the possible loss of jobs. The proposal would not meet the requirements of policy DM12 of the Barnet Local Plan – Development Management Document (2012), which seek, amongst other things, to protect retail uses where there is still demand for such uses.
9. However, as the parade is set in a residential area, surrounded by suburban housing, it cannot be regarded as falling within a town centre. As such, the proposed change of use would not result in conflict with the most relevant

¹ As identified in paragraph 4.3 of the Council's statement of case.

policies in the National Planning Policy Framework, which seek to ensure the vitality of town centres. Overall, I give little weight to the conflict with the development plan, together with the other concerns raised, in applying the relevant statutory test, which in this case relates primarily to the adequacy of retail provision. In this case the loss of a single retail unit on this parade would not result in an inadequate provision of retail services occurring.

10. As such, the proposal would not be undesirable having regard to the impact on the adequate provision of shops of the sort that may be provided by a building falling within Class A1 (shops). The appeal should succeed, and approval should be granted for the proposal. The planning permission under Article 3 and Schedule 2, Part 3, Class M of the GPDO is granted subject to the statutory conditions set out at Paragraph M.2 (3) of Schedule 2, Part 3, Class M of the GPDO. A further condition requiring details of waste storage and cycle parking is necessary in the interests of ensuring the proposal is acceptable in transportation and highway safety terms.

Neil Holdsworth

INSPECTOR