



Appeal Decision

Site visit made on 25 February 2020

by Alison Scott BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 March 2020

Appeal Ref: APP/T5150/W/19/3242402
241 Neasden Lane, London NW10 1QG

- 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 Trentor Ltd against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/2261, dated 17 May 2019, was refused by notice dated 20 August 2019.
 - The development proposed is Prior approval for change of use of the rear storage area from retail (Use Class A1) to residential (Use Class C3) involving the creation of 2 self-studio flats.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. There is no description of the proposal within the Council's planning application form and therefore I have used the description within the banner heading as per the description given by the Council.
3. The Council accepts that the proposal meets the requirements of paragraph M.1 of the provisions of the General Permitted Development (England) Order 2015 (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 view.
4. However, for development to be permitted by Part 3 Class M of the GPDO, it is subject to a series of conditions requiring prior approval of the Council in relation to five matters. Three of these which relate to contamination, flood risk and design, are not in contention.
5. One matter in dispute in this case relates to the requirement set out in criterion (a) paragraph M.2 (1) of the GPDO in respect of transport and highways impacts of the development, and paragraph (d) which states that it is for the Local Planning Authority to determine 'whether it is desirable for the building to change a use falling within Class 3 of the Schedule to the Use Classes Order because of the impact of the change of use'. These impacts relate either to (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 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. It is (ii) that is relevant in this particular case.

Main Issues

6. The main issues are:

- Whether or not the proposal would have an effect on transport and highways in respect of servicing, refuse and cycle storage.
- Whether or not it would be undesirable for the building to change to a use falling within Class C3 having regard to the effect on the sustainability of the shopping area.

Reasons

Transport and Highway impacts

7. The existing unit currently has a wide frontage along Neasden Lane and extends to the attached storage unit to the rear. Access to this is via the rear service yard behind the parade. This part of Neasden Lane where the unit is located includes bus stops, a zebra crossing, disabled parking bays, a loading bay and electric vehicle charging bays. The immediate area was heavily parked during my visit. Given the busy nature of the area, this is likely to be a common occurrence here.
8. I could see that the rear service yard is difficult to navigate for deliveries to the existing unit due to the cluttered nature of the service yard area and its general layout. I can therefore appreciate that the loading bay has been well used by this unit, which is confirmed by the previous tenant, and, bearing in mind the arrangement of the rear service yard, this loading bay is very likely to support other units along the parade.
9. There is nothing before me to suggest that the existing loading bay is insufficient to cope with demand. This leads me to the view that deliveries taken exclusively from the loading bay would not result in any greater transport and highway impacts than currently exists.
10. Cycle storage is proposed within the narrow and shared pathway leading to the floors above the shops along the parade, or within the space below the external staircase to the flats above, however this space was occupied by other paraphernalia. The service yard area could be utilised for refuse storage. However, it has not been demonstrated how storage of both kinds can be acceptably accommodated without causing a direct impact on transport and highways.

Sustainability of shopping area

11. The appeal site is currently vacant and located within a parade of a variety of retail and commercial uses. The parade contains a number of shop units serving the public as well as a public house.
12. In respect of 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 GDPO does not define a 'key

shopping area'. However, the Council sets out that the site is located within the District Centre of Neasden.

13. The stock room is closely associated with the retail unit. There would be no effect of the proposal on the street-scene and as a result of the proposal, a retail presence would still remain.
14. The unit was previously occupied and has been vacant for 'around two years'. 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 have been made to market the unit at an appropriate price in its current form. The single letter from the commercial agents does not demonstrate this. I therefore cannot be certain that the unit could not operate successfully in the future in its current form.
15. Apart from the commercial agent's letter, there is no evidence presented to suggest that a retail unit of this current size with stock room, is not sought after. Despite the fact that other retail units may have smaller storage areas in comparison to retail space, and are around the same size as the size proposed, this is not a sufficient reason to justify why this unit is not desirable.
16. The appellant explains that the centre has one of the highest proportions of vacant primary frontage units in the Borough of Brent. However, no precise details have been submitted to substantiate this claim, and equally there is no evidence presented to demonstrate that the unit, as proposed, would be more desirable to let. There is no evidence presented of proprietors wanting to occupy the premises at the size proposed.
17. From what I could see on site, the parade consists of fairly low vacancy rates. Opposite the parade, the retail and other offer was extensive, with limited vacancy levels and a variety of unit sizes. Other local shopping streets in general offers much customer choice, have a good occupancy level, and a vibrancy to it with high footfall.
18. The proposed reduction in size of the storage area of approximately 162sqm to approximately 14sqm, and significantly smaller when compared to the remaining retail space, would, in my view, disadvantage the opportunity to successfully let the unit. There would be no flexibility to store additional stock which could reduce its appeal to potential occupiers.
19. Therefore, in the absence of evidence to the contrary, the proposal would reduce the sustainability of the shopping area.

Other Matters

20. Issues of lost revenue from a vacant shop and security of the premises does not fall within the remit to consider as part of this prior approval process, nor does business rates. Additional numbers of residents it would generate is also not within the scope of my decision making.

Conclusion

21. Taking all the factors into account, I conclude that it is undesirable for the building to change to a use falling within Class C3. This is because its loss would undermine the sustainability of the District Centre. As it also has the potential to lead to direct impacts on transport and highways, for these reasons

given, the proposal therefore fails to satisfy the conditions of a prior approval under Class M of the GPDO.

22. I conclude that the appeal should be dismissed.

Alison Scott

INSPECTOR