



Appeal Decision

Site visit made on 13 May 2020

by Ian Harrison BA Hons DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 June 2020

Appeal Ref: APP/T5150/W/20/3245844

384 Neasden Lane North, London NW10 0BT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class M, Paragraph M.2(1) of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Ms Loretta Coyne against the decision of the Council of the London Borough of Brent.
 - The application Ref 19/3877, dated 30 October 2019, was refused by notice dated 17 December 2019.
 - The development proposed was initially described as the "change of use from retail to 2x C3 units together with shopfront changes at 384 Neasden Lane North, London NW10 0BT."
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The description of development in the heading above has been taken from the cover letter that accompanied the original application form, as directed to by that form. At Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Although an alternative description has subsequently been used by the main parties, neither of the main parties has provided written confirmation that the revised description of development has been agreed. Accordingly, I have used the one that accompanied the original application form.
3. Class M(a) and Class M(b) of Part 3 of Schedule 2 of the GPDO¹ combine to permit the change of use of a building from a use falling within Class A1 (shops), as defined by the UCO², to a use falling within Class C3 (dwellinghouses) of the UCO and building operations reasonably necessary to convert the building. However, Paragraph M.2.(1) of Class M of the GPDO sets out conditions that are applicable to undertaking such development, including a requirement for the developer to apply to the local planning authority, before beginning the development, for a determination as to whether their prior approval is required in respect of the matters that are specified at sub-sections (a) to (e) of that Paragraph.
4. Paragraph W of Part 3 of the GPDO is applicable to the required application. This states that an application may be refused where the proposed development does not comply with any of the specified conditions, limitations or restrictions that are applicable to the development in question. Therefore, before assessing whether

¹ The Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended)

² The Town and County Planning (Use Classes) Order 1987 (as amended).

prior approval should be required, it is necessary to be certain that the development complies with the other applicable conditions, limitations and restrictions.

5. Notwithstanding the above, the Council concluded that its prior approval was required, with one of their reasons being that the proposed use of the premises for residential purposes would be undesirable due to the effect of noise on the living conditions of future occupiers. In this regard, the Council appears to have applied the initial text of Paragraph M.2.(1)(d) independently from sub-sections (i) and (ii) of that paragraph. I do not agree that the legislation is intended to be read in that way and, therefore, I do not consider that this is a matter that falls within the various matters that are specified at sub-sections (a) to (e) of Paragraph M.2.(1). As such, it is not necessary to assess whether prior approval is required in that respect.

Main Issue

6. For the reasons set out above, the main issue is whether the development complies with the conditions that are applicable to the permitted development that is enabled by Class M of Part 3 of Schedule 2 of the GPDO and, if it does, whether the prior approval of the local planning authority should be required.

Reasons

7. As set out above, a condition of undertaking development under Class M(a) together with development under Class M(b) is that, before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required in respect of various specified matters. Furthermore, Paragraph W.(11) states that development must not begin unless one of three outcomes of the application has occurred.
8. In this case, the development applied for includes building operations associated with the proposed change of use in the form of the replacement of the shopfront. At the time of my visit, the front elevation of the building resembled the proposed elevations shown on plan 0464-203 REV D rather than the existing elevations shown on plan 0464-200. Accordingly, the frontage of the building has a markedly different appearance to the shopfront that is shown within the appellant's appeal statement. That appeal statement also confirms that the replacement of the shopfront is part of the development proposed. I have not been made aware of any other permission being granted for the works that have been undertaken and, as such, have no grounds to conclude that these works have been undertaken other than as part of the development that is the subject of this appeal.
9. I have sought clarification and comments on this matter from the main parties, in response to which the appellant has identified that the change of use of the building has not occurred. It has also been stated that, if prior approval is not granted, the obscure glazing film that has been applied to the windows at the front of the premises would be removed and the property could be made available for a commercial tenant.
10. Notwithstanding this, the alterations to the shopfront are integral to the layout of the development and are, therefore, directly related to the development for which prior approval is sought and cannot be severed from that development. Accordingly, whilst I note the appellant's position that the premises has not been occupied for residential purposes, external works that form part of the development have been carried out and those works represent a significant component of the proposed change of use. Accordingly, as a matter of fact and

degree, I conclude that the development for which prior approval is sought has begun.

11. The Council did not refer to the matter of works having commenced in its reasons for refusal. Nonetheless, I must determine this appeal on the basis of the current situation, and the specific conditions and requirements of the GPDO.
12. For the reasons given, I conclude that the development has begun without the conditions of Paragraph M.2(1) of Class M being met. Therefore, the development does not comply with the conditions that are applicable to the permitted development that is enabled by Class M of Part 3 of Schedule 2 of the GPDO. The development is not, therefore, permitted development.
13. As I have reached this conclusion, it is not necessary to consider whether prior approval is required in respect of the various matters that are set out at sub-sections (a) to (e) of Paragraph M.2(1) of Class M of Part 3 of Schedule 2 of the GPDO.

Conclusion

14. For the reason given above, the development is not permitted under the terms of the GPDO. I therefore conclude that the appeal should be dismissed.

Ian Harrison

INSPECTOR