



Appeal Decision

Site visit made on 20 October 2020

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 October 2020

Appeal Ref: APP/P4605/W/20/3256250
304 Stratford Road, Birmingham B11 1AA

- 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 (the GPDO).
 - The appeal is made by Adel Sami Al-Jadir (Sumer One Ltd) against the decision of Birmingham City Council.
 - The application Ref 2020/03513/PA, dated 5 May 2020, was refused by notice dated 25 June 2020.
 - The development proposed is conversion of part ground floor retail A1 into C3 dwelling.
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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) for change of use of the rear element of an existing ground floor retail unit (Use Class A1) to a single residential dwelling (Use Class C3) at 304 Stratford Road, Birmingham, B11 1AA in accordance with the terms of the application 2020/03513/PA, dated 5 May 2020, including the plan references: BR01 & BR02.

Background and Main Issue

2. Schedule 2, Part 3, Class M of the GPDO provides a permitted development right for the change of use of a building falling within use class A1 (shops) to dwelling houses (class C3). 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 the limitations and conditions of Class M were met.
3. The Council's sole reason for refusing the application indicate that requirements of Class M are not met because the proposed development is mixed use, with part of the ground floor being retained as a shop. The Council have indicated there is no other reason for refusal and the evidence before me indicates the Council agree that the proposal meets the relevant requirements set out in the GPDO.
4. The main issue in this appeal is therefore whether the building is eligible for conversion under the permitted development rules in Class M.

Reasons

5. The building currently has a mixed use with retail at ground floor level and other uses on the upper floors of the building. Class M states that development is eligible where it consists of change of use of a building from a use falling within class A1 (shops), to a use falling within class C3 (dwellinghouses).
6. Paragraph 2 of the GPDO states that 'building' includes 'any part of a building'. It follows that the permitted development right can apply to the rear part of the existing ground floor shop, whilst retaining the front part of the ground floor as an independent retail use. This is consistent with other appeal decisions, cited by the appellant, where Inspectors have allowed similar appeals relating to the conversion of part of a building. For these reasons I consider that the proposal before me is eligible for conversion under permitted development.
7. No external amenity space is provided, but this is not a requirement under the relevant parts of the GPDO. Consequently, it would not be reasonable to withhold approval on this ground. The proposal does not pose unacceptable risks in relation to contamination or flooding. There is no conflict with the National Planning Policy Framework.

Conclusion

8. For the reason given above and having had regard to all other matters raised, I conclude that the proposal is permitted development and the appeal should succeed. It is not necessary to have a condition listing the approved plan, as it is listed in the first paragraph of this decision. 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. No other conditions are necessary or justified.

Paul Cooper

INSPECTOR