



Appeal Decision

Site visit made on 21 June 2021

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th July 2021

Appeal Ref: APP/Q5300/W/21/3266224

219 Whittington Road, Southgate N22 8YW

- 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 Benny Hoffman against the decision of the Council of the London Borough of Enfield.
 - The application Ref 20/03582/PIA, dated 2 November 2020, was refused by notice dated 29 December 2020.
 - The development proposed is change of use from the ground floor retail use (Class A1) to residential use (Class C3).
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and 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 the ground floor retail use (Class A1) to residential use (Class C3) at 219 Whittington Road, Southgate N22 8YW in accordance with the application Ref 20/03582/PIA made on 2 November 2020, and the details submitted with it including plan WRN.219.LP and WRH.219.EX&PR.FP.01 pursuant to Article 3(1) and Schedule 2, Part 3, Class M, paragraph M (a) & (b) and subject to the following conditions:
 - 1) Prior to the first occupation of the development, details of the cycle stand/hanger shall have been submitted to and approved in writing by the Local Planning Authority. The cycle stand/hanger shall be installed in accordance with the approved details prior to the first occupation of the development and retained for the lifetime of the development.
 - 2) Prior to the first occupation of the development, details of the sealable waste cupboard shall be submitted to and approved in writing to the Local Planning Authority. The waste cupboard shall be installed in accordance with the approved details prior to the first occupation of the development and retained for the lifetime of the development.

Procedural Matters

2. The principle of development is established by the GPDO and there is no requirement to have regard to the development plan. I have had regard to the policies of the development plan only in so far as they are a material consideration relevant to the matters under consideration.

3. The appellant has submitted amended plans which detail the sealable waste cupboard. However, the Procedural Guide to Planning appeals (2019) at Annexe M states that the appeal process should not be used to evolve a scheme and it is important that I determine this appeal based on what was considered by the council.
4. The evidence indicates that the first refusal reason relating to conflicting information regarding the uses of the premises has been overcome and this has been noted by the appellant.
5. The evidence therefore indicates that proposal meets the requirements of paragraph M.1 of the GPDO and therefore it constitutes Permitted Development under Class M, subject to the prior approval of certain matters.
6. For development to be permitted by Class M of the GPDO, it is subject to a series of conditions requiring prior approval of the Council in relation to various matters. Criterion (a) paragraph M.2.(1) relates to the transport and highways impacts of the development.
7. Criterion (d) states that it is for the local planning authority to determine "whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use". These impacts relate amongst other matters at (ii) to where the building is located within a key shopping area, on the sustainability of that shopping area.
8. The evidence does not indicate that matters relating to the adequate provision of services under sub paragraph (i) of criterion (d), contamination and flooding risks, the design and external appearance of the building or the provision of adequate natural light in all habitable rooms of the dwellinghouses, are in contention.

Main Issues

9. The main issues therefore are whether or not it would be undesirable for the building to change to a use falling within Class C3 (dwellinghouse), having regard to the effect on the sustainability of the shopping area and the transport and highways impacts of the development.

Reasons

Sustainability of shopping area

10. Sub paragraph (ii) set out in M.2(1)(d) of the GPDO seeks to assess the desirability, or otherwise, of a change of use of a building due to its location in a key shopping area. The GPDO does not define a 'key shopping area'.
11. The evidence indicates that the appeal site is located within a commercial parade, identified within the evidence as the Whittington Road Local Parade.
12. Policy DMD28 of Enfield's Development Management Document (2014) (DMD) is relevant, as it relates amongst other things, to local parades. The justification of the policy, amongst other matters is based on protecting the provision of day-to-day goods and services and the retention of the primary retail role to meet the local needs of the residents in the local neighbourhood.

13. However, the retail function of the parade is extremely limited. Many of the units were in non-retail use. Further, at the time of my site visit, early on a weekday afternoon many of the units were shuttered or vacant. While a general store was open within the parade, the area was quiet. This was in marked contrast to the more vibrant concentration of retail and other commercial uses a short distance to the south spread along Myddleton Road. The evidence also outlines that there has been limited interest in taking on the unit over the identified period of marketing, albeit with fairly lengthy leases apparently on offer.
14. I do not therefore consider the parade to form a key shopping area, and the proposal would not undermine the sustainability of the shopping area given that the evidence raises questions over its sustainability. The residential use would not therefore conflict with the aims of Policy DMD28 of the DMD. I therefore conclude on this matter that the proposed change of use meets the test set out in sub paragraph (ii) of M.2.(1)(d) of the GPDO.

Transport and highways impacts of the development

15. There is concern in relation to cycle parking and waste storage at the site. Any transport and highways impacts, including additional parking demand, would be very limited given the small scale of the proposal which relates only to a studio flat.
16. The appellant has indicated that a bike stand could be provided within the flat. Whilst this may not meet the full accessibility standards, including the width of the access door, it would still be a feature that any occupier of the flat may wish to utilise and find useful. A condition relating to its provision is therefore included. In any event, the appeal site is within a short walking distance of Bowes Park Station.
17. Even were the occupier to place waste outside of the flat, it is unlikely that this would cause any serious highways impacts. Clearly however, this would be undesirable and would inconvenience users of the footway. With this in mind a condition is included relating to the provision of a sealable waste storage cupboard. In any event, waste generated by the likely limited number of occupants of the flat would not be likely to be excessive in amount.
18. Both conditions are necessary to further minimise the very limited transport and highways impacts that could be associated with the development. The proposed change of use would therefore have no significant transport or highways impacts and would meet the test set out in M.2.(1)(a) of the GPDO.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

T J Burnham

INSPECTOR