



Appeal Decision

Site Visit made on 13 July 2021

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 July 2021

Appeal Ref: APP/H5960/W/20/3263123

144 Battersea High Street, London SW11 3JR

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Elio Notarianni against the decision of London Borough of Wandsworth.
 - The application Ref 2020/0465, dated 12 February 2020, was refused by notice dated 23 June 2020.
 - The development proposed is notification for Prior Approval for a proposed change of use of a building from office use (Class B1(a)) to a dwellinghouse (Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. Despite the description of development in the banner heading above which is taken from the application form it is evident that the Council considered the proposed development in the context 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). The Council dealt with the scheme on this basis and so shall I.

Main Issue

3. The main issue in this appeal is whether the proposed development would be granted planning permission by Article 3(1) and Schedule 2, Part 3, Class M of the GPDO with particular regard to the requirements of paragraphs M.2(1), M.2(1)(c) in respect of flooding risks in relation to the building and paragraph W.

Reasons

4. Article 3, Schedule 2, Part 3, Class M of the GPDO permits development consisting of a change of use of a building from a retail, takeaway and specified sui generis uses to a dwellinghouse subject to a number of limitations and conditions.
5. Paragraph M.2 (1) sets out that development is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for determination as to whether prior approval is required including in respect of flood risk.

6. Paragraph W of Schedule 2, Part 3 of the GPDO, sets out the provisions whereby a developer is required to make an application to the local planning authority for a determination as to whether the prior approval of the authority will be required. This states that development must not begin before the applicant is in receipt of written notice that prior approval is not required; written notice giving approval, or the local planning authority has not notified the applicant on the expiry of 56 days following the date of the application as to whether prior approval is given or refused.
7. The council contend that the proposed development does not comply with paragraph W(11) of the GPDO on the basis that development had already commenced before the application for prior approval was submitted.
8. Whilst some internal alterations are exempt from the definition of development under Section 55(2) of the Town and Country Planning Act 1990 (The Act), this applies to works of maintenance, improvement or other alteration of any building of works which affect only the interior of the building. However, the Act is clear that the definition of development includes the material change in the use of any buildings or land.
9. The appeal relates to the ground floor of a property located on Battersea High Street. The premises is currently vacant but was previously used as an office. At the time of my site visit I observed a fitted wardrobe and drawers in place, a complete kitchenette and shower room and a ladder fixed to the wall leading up to an elevated mezzanine. Whilst there were miscellaneous items in the premises it clearly had a domestic internal appearance. In my view, little or no physical works would be required to use the premises for residential purposes.
10. Consequently, based on the evidence before me including my observations at the site visit I conclude that the proposed development does not comply with paragraph W(11) of Schedule 2, Part 3 of the GPDO, as development to convert the premises into a dwelling has been carried out prior to the specified criteria.

Other Matters

11. Flood risk is a matter of dispute between the Council and the appellant under paragraph M.2 (1)(c). I note the information in relation to flood risk including a Flood Risk Assessment have been provided by the appellant. However, as I have found that the proposals are not permitted development, it is not necessary for me to consider this matter further.

Conclusion

12. For the reasons set out above the appeal does not succeed.

B Thandi

INSPECTOR