



## Appeal Decisions

Site Visit made on 19 July 2021

**by Ben Plenty BSc (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 10 August 2021**

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### **Appeal A Ref: APP/Q5300/W/21/3266960**

#### **459 Green Lanes, Southgate, N13 4BS**

- 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 and Mrs Lynam against the decision of London Borough of Enfield.
  - The application Ref 20/02635/PIA, dated 12 August 2020, was refused by notice dated 8 October 2020.
  - The development proposed is the conversion of an existing retail unit into a self-contained flat.
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### **Appeal B Ref: APP/Q5300/W/21/3266969**

#### **459 Green Lanes, Southgate, N13 4BS**

- 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 and Mrs Lynam against the decision of London Borough of Enfield.
  - The application Ref 20/03561/PIA, dated 1 November 2020, was refused by notice dated 23 December 2020.
  - The development proposed is the conversion of an existing retail unit into a self-contained flat.
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## **Decision**

1. Appeal A 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 for the conversion of an existing retail unit into a self-contained flat at 459 Green Lanes, Southgate, N13 4BS in accordance with application ref 20/02635/PIA, dated 12 August 2020 and the details submitted pursuant to Article 3(1) and Schedule 2, Part 3, Paragraph M.2(1), subject to the condition that the development must be completed within a period of three years from the date of this decision in accordance with Paragraph M.2(3)(a).
2. Appeal B 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 for the conversion of an existing retail unit into a self-contained flat at 459 Green Lanes, Southgate, N13 4BS in accordance with application ref 20/03561/PIA, dated 1 November 2020 and the details submitted pursuant to Article 3(1) and Schedule 2, Part 3,

Paragraph M.2(1), subject to the condition that the development must be completed within a period of three years from the date of this decision in accordance with Paragraph M.2(3)(a).

### **Application for costs**

3. An application for costs, with respect to appeals A and B, have been made by Mr and Mrs Lynam against the London Borough of Enfield. This application is the subject of a separate decision.

### **Preliminary Matters**

4. A revised version of the National Planning Policy Framework (The Framework) was published with immediate effect on 20 July 2021. Policies within the revised Framework are material considerations which should be taken into account in decision making. Main parties have been given an opportunity to comment on the new Framework and I have taken into account any subsequent comments received in arriving at my decision.
5. The two appeals relate to the same site and each other. The proposal associated to both appeals is similar apart from that appeal A includes minor external changes to the building. Planning permission would be required for this separately to those matters covered by these appeals. The second application, with respect to appeal B, has removed all proposed external alterations retaining the existing doorway. The actual proposal appears unchanged between both schemes, although the second attracted a second reason for refusal. I have considered each proposal on its own merits, but as they raise similar issues, I have dealt with them in a single decision letter.
6. With respect to appeal B, the Council has cited policies 6.9 and 6.13 of the London Plan (2016) in its second reason for refusal. These policies have been transposed and renumbered as policies T5 and T6 within The London Plan (2021) which has now been published. These policies are generally the same as the ones they have replaced. I shall take these into account in my decision.
7. The principle of development is established by the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO). The provisions of Schedule 2, Part 3, Class M of the GPDO do not require regard to be had to the development plan. However, I have had regard to the policies of the development plan only in so far as they are a material consideration in connection with highway impacts and retail matters where relevant to the case.
8. The Town and Country Planning (General Permitted Development)(England) (Amendment) Order 2021 came into force 1 August 2021, but was subject to saving and transitional provisions. Class M is subject to condition M.2(3)(c) that states that where the proposed development includes a change of use of a building from a use falling within Class A1 or Class A2 of the Use Classes Order, the developer must apply for a determination under sub-paragraph (1) or (2) on or before 31 July 2021. Furthermore, Class MA is subject to condition MA.2(3) which states that an application for prior approval for development under Class MA may not be made before 1 August 2021. As such, it has been necessary to determine this appeal under the provisions of Class M.

## Background and Main Issues

9. Schedule 2, Part 3, Class M of the GPDO permits the change of use of a building from a use falling within, amongst other classes, Class A1 (shops) to a use falling within Class C3 (dwellinghouse) of what was the Schedule to the Town and Country Planning (Use Classes) Order 1987 (UCO). This is subject to criteria under paragraph M.1 and conditions under paragraph M.2. It is not disputed between parties that the proposal meets the requirements of Paragraph M.1 of the GPDO. As such, it constitutes Permitted Development under Class M, subject to the prior approval of the matters listed at paragraph M.2 of the GDPO.
10. In this case, paragraph M.2(1)(a) necessitates consideration of whether the change of use proposed would impact on transport and highways. Also, paragraph M.2(1)(d) requires consideration as to whether it would be undesirable because of its impact on the following: (i) adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops), where there is a reasonable prospect of the building being used to provide such services, or; (ii) where the building is located in a key shopping area, on the sustainability of that shopping area.
11. The main issue, for appeals A and B, is whether the proposed change of use would comply with the conditions imposed under paragraph M.2(1)(d) on development permitted under Class M and, if so, the impacts of the change of use on the sustainability of the key shopping area. A further main issue, with respect to appeal B, are the transport and highway impacts of the proposal that are required to be satisfied by virtue of paragraph M.2(1)(a).

## Reasons

### *'Reasonable prospect' and impact on the Key Shopping Area*

12. The appeal site is a vacant retail unit. It was previously a hairdressing salon which ceased trading December 2018. The site is located within a row of semi-detached buildings, some of which provide retail, financial and community services, although the majority are retained in residential use.
13. The submitted occupancy audit<sup>1</sup> shows that commercial units, within the District Centre opposite, are occupied with limited vacancies and include several hairdressers. This reflects that the Centre is a vibrant and vital commercial area. Whereas the evidence indicates that the unit of the appeal site has been vacant for over two years and has therefore made no contribution to the vitality of the adjacent Centre for a prolonged period. Therefore, due to the property's location outside the District Centre, and being adjacent to residential properties, it would seem to have a limited prospect of being brought back into retail use.
14. It is important to maintain a retail core, to encourage customer footfall and contribute to the vitality of the Palmers Green District Centre (PGDC). However, as the site is beyond the District Centre, the loss of the retail use would not have a meaningful impact on the Centre. Consequently, the wider area would retain an adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops). Therefore, there is no reasonable prospect of the unit the subject of this appeal being used to provide

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<sup>1</sup> Green Lanes Occupancy Audit – Ground Floor Premises – 26 October 2020

such services, and thus the proposal would satisfy Class M.2(1)(d)(i) of the GPDO.

15. The PGDC is defined by the Enfield Policies Map. The majority of units within this Centre appear to be in active use. As such, the centre is a vibrant and active shopping area. The appeal site is within a dispersed parade of units that consist of a combination of business uses and private residential properties. The western side of this section of Green lanes therefore includes of a variety of uses. These disparate uses form a substantially different character and function in contrast to the consolidated and continuous grouping of retail and service uses provided opposite the site within the PGDC.
16. The GPDO does not define a 'key shopping area'. Nevertheless, the site is not located within a designated town centre, a defined primary or secondary shopping frontage or a recognisable parade of shops. Therefore, whilst being adjacent to a district centre, the site would not be within a key shopping area. Consequently, on this basis, I am not required to assess the effect of the proposal on the sustainability of the adjacent shopping area. The proposal would therefore also satisfy paragraph M.2(1)(d)(ii) of the GPDO.

#### *Transport and Highway impacts*

17. The matters in dispute with respect to appeal B include in relation to the information submitted concerned with pedestrian and vehicular safety. During consideration of the first application the Council sought further details with respect to cycle parking, refuse storage and vehicle parking arrangements. Further details were submitted that showed an arrangement that satisfied the requirements of the Council's Highway Engineer and the application was refused only on retail grounds.
18. Nevertheless, in the second application, the Council's Highway Engineer sought further clarification. Further details were requested with respect to how the forecourt could accommodate a refuse and recycling area, cycle parking and a clear pedestrian access. The layout plan, submitted by the appellant in support of the appeal (X116-D-01), demonstrates how the frontage could accommodate parking for two cycles, four cars and a refuse store. The layout therefore shows how the site could readily accommodate the existing and proposed uses without detriment to pedestrian safety.
19. Furthermore, the site is opposite a district centre. Occupiers of the proposal would have easy access to public transport and goods and services. As a result, the proposal would be unlikely to attract a greater level of traffic, with a greater level of risk, than that associated with the existing use. Therefore, the transportation and highway impacts associated with the proposal would be negligible or zero. The proposal would therefore satisfy paragraph M.2(1)(a) of the GPDO.

#### **Other Matters and Conditions**

20. The UCO has been amended so that, from 1 September 2020, use classes A1, A2 and B1(a) fall within class E of Part A, Schedule 2 of the UCO and planning permission is not required for a change of use between any use falling within class E. For the avoidance of doubt, this amendment has had no bearing on my consideration of this appeal. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 provide that if any relevant planning

application refers to use classes as specified on 31 August 2020, it shall be determined by reference to those classes.

21. Development is permitted under Class M subject to paragraph M.2(3)(a) and (b) require that development commences within three years from the date that prior approval is given and that the building is used for Class C3 use only. No further conditions are considered to be necessary for the proposal associated with either appeal.

### **Conclusion on appeal A**

22. Taking the above together, the appeal site does not have a reasonable prospect of being brought back into use as a retail use and the proposal would not harm the operation or vitality of the nearby key shopping area. Therefore, the proposed change of use, in connection with appeal A, would meet the tests set out in paragraph M.2(1)(d) of the GPDO. Policies within the development plan can be material to the assessment of a prior approval application. However, policies CP18 of The Enfield Plan Core Strategy (CS) and DMD28 of the Enfield Development Management Document (DMD) relate to the loss of retail uses within large and small local centres and local parades. The appeal site would fall outside such an area and these policies would therefore not be relevant to this case.

### **Conclusion of appeal B**

23. In addition to the above conclusion and my finding for appeal A, the proposal with regard to appeal B would also not raise transport or highway impacts with respect to paragraph M.2(1)(a) of the GPDO.
24. The proposed change of use, in connection with appeal B, would therefore meet the tests set out in paragraph M.2(1)(a) and (d) of the GPDO. Furthermore, in that they are material considerations the proposal would accord with policies CP25 of the CS, DMD45 and DMD47 of the DMD and T5 and T6 of the London Plan. These policies seek, inter alia, for development to include sufficient provision of cycle parking and for car parking to be limited in areas with good access to public transport.

### **Overall conclusion**

25. I therefore conclude that the proposed change of use as described by both appeals A and B, is permitted development under Article 3(1) and Schedule 2, Part 3, Class M of the GPDO. Prior approval is therefore granted, and it is not necessary to impose any conditions beyond those set out in the GPDO. On that basis, both appeals are allowed.

*B Plenty*

INSPECTOR