



Appeal Decision

Site visit made on 7 September 2021

by Paul Cooper MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 September 2021

Appeal Ref: APP/P4415/W/21/3276620

67-71 Laughton Road, Dinnington, Rotherham S25 2PN

- 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 Mr Daniel Adler (Greatglen Estates Ltd) against the decision of Rotherham Metropolitan Borough Council.
 - The application Ref RB2021/0206, dated 28 January 2021, was refused by notice dated 30 March 2021.
 - The development proposed is Prior Notification for the proposed Change of Use of a building from Retail (Use Class A1 or A2) to Dwellinghouse (4 No. Flats) (Use Class C3).
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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 Prior Notification for the proposed Change of Use of a building from Retail (Use Class A1 or A2) to Dwellinghouse (4 No. Flats) (Use Class C3) at 67-71 Laughton Road, Dinnington, Rotherham S25 2PN in accordance with the terms of the application RB2021/0206, dated 28 January 2021, including the plan references: 2021.12-4.LP, AR.02.EX.01, AR.02 EX.02, AR.02.PR.201, LR 67-71.PR.202.

Procedural Matter

2. I have taken the description of development from the Decision Notice of the Council as it is far more concise than that on the application form. I note that the appellant has also used it on the appeal form. I am satisfied that neither party is prejudiced by this course of action.
3. Since the application was determined, the Use Classes Order has been amended, and Class A has now been amended to Class E. My decision refers to the revised Use Classes

Background and Main Issue

4. 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 E (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.

5. The Council's sole reason for refusing the application indicate that the 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.
6. The main issue in this appeal is therefore whether the building is eligible for conversion under the permitted development rules in Class M.

Reasons

7. The building was previously a retail unit, and I understand that a recent application for a Lawful Development Certificate was granted for the use of the upper floor as two self-contained flats.
8. Class M states that development is eligible where it consists of change of use of a building from a use falling within class E (shops), to a use falling within class C3 (dwellinghouses).
9. Article 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.
10. The proposal does not pose unacceptable risks in relation to contamination or flooding. There is no conflict with the National Planning Policy Framework.
11. With regard to whether the loss of the shopping unit would have an effect on the sustainability of the area, I am satisfied that the area would not be materially affected by the change of use of this unit.

Conclusion

12. 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