



Appeal Decision

Site visit made on 29 November 2021

by Andrew Smith BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10 December 2021

Appeal Ref: APP/W1905/W/21/3271584

106-108 High Street, Waltham Cross EN8 7BX

- 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 Daniel Adler against the decision of Broxbourne Borough Council.
 - The application Ref 07/20/1183/PNA1RES, dated 15 December 2020, was refused by notice dated 9 February 2021.
 - The development proposed is described as prior notification of change of use of first and second floors from retail (A1) to 6no self-contained studio flats (C3).
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Decision

1. The appeal is allowed and prior 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) (the GPDO) for change of use of first and second floors from retail (A1) to 6no self-contained studio flats (C3) at 106-108 High Street, Waltham Cross EN8 7BX in accordance with the terms of the application, Ref 07/20/1183/PNA1RES, dated 15 December 2020, subject to the standard conditions laid out at Paragraph M.2(3) to Part 3 of the GPDO and the following additional condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: OR.117.LP.N16; HS.106-108.EX.01; HS.106-108.PR.101.

Main Issue

2. Whether or not adequate natural light would be provided to all habitable rooms.

Reasons

3. The provisions of Schedule 2, Part 3, Class M of the GPDO require the Local Planning Authority to assess the proposed development based on several different matters that are set out at Paragraph M.2(1) of the GPDO. The Council's reason for refusal confirms that the sole matter in contention is whether or not all habitable rooms of the studio flats intended would be provided with adequate natural light. The Council's concerns are limited to one of the flats, which is depicted as Flat 4 on the submitted proposed floor plans.
4. Flat 4, which would be located at second floor level, would be served by two different sets of window openings, one to the north-facing elevation and one to the west-facing principal elevation of the building. The relevant floor plan

indicates that an open-plan internal layout is proposed, which is consistent with the studio flat accommodation that is intended.

5. The proposal is supported by a Daylight Assessment¹, which indicates that an acceptable level of daylight availability would be achieved in accordance with relevant British Research Establishment guidance. Having considered the precise positions, heights and sizes of the window openings concerned, as well as the full contents of the Daylight Assessment, I am satisfied that adequate natural light would be provided to all habitable rooms.
6. Notwithstanding the small size of proposed Flat 4 and the lack of access to be provided to private external amenity space, the scheme satisfactorily accords with the National Planning Policy Framework (July 2021) in so far as it is relevant to the subject matter of the prior approval and sets out that planning decisions should ensure that development creates places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
7. From the evidence before me, the scheme would not have an adverse impact or cause undue risks in the context of any of the relevant matters listed under Paragraph M.2(1). This indicates that prior approval should be granted.

Conditions

8. At paragraph 1 of this decision, I have referenced the standard conditions that apply as laid out at Paragraph M.2(3) to Part 3 of the GPDO.
9. Sub-paragraph (13) of Paragraph W of Part 3 allows for the imposition of additional conditions reasonably related to the subject matter of the prior approval. Sub-paragraph (12) of Paragraph W to Part 3 sets out that development must be carried out in accordance with the details approved. In this sense, a condition listing the approved plans is reasonable to impose in the interests of certainty.
10. The Council has suggested that a condition be imposed to secure details of facilities to be provided for the storage and removal of refuse. However, it has not been demonstrated how such a requirement would be reasonably related to any prior approval matter listed under Paragraph M.2(1) of the GPDO. Thus, it would be unreasonable to impose a condition to this effect.

Conclusion

11. For the reasons set out above, the appeal is allowed and prior approval is granted subject to conditions.

Andrew Smith

INSPECTOR

¹ Ref 3660, Issue 1, December 2020