



Appeal Decision

Site visit made on 29 November 2021

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10/01/2022

Appeal Ref: APP/N5090/W/21/3270530

146 Gallants Farm Road, East Barnet, Barnet EN4 8EL

- 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 M Adamou against the decision of the Council of the London Borough of Barnet.
 - The application Ref 20/04608/PNR, dated 30 September 2020, was refused by notice dated 10 November 2020.
 - The development proposed is change of use from A1 (retail) to C3 (dwellinghouses) to form 1 x 1 bedroom 2 person self contained flat with associated changes to the front elevation.
-

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) (the GPDO) for change of use from A1 (retail) to C3 (dwellinghouses) to form 1 x 1 bedroom 2 person self contained flat with associated changes to the front elevation at 146 Gallants Farm Road, East Barnet, Barnet EN4 8EL in accordance with the terms of the application 20/04608/PNR, dated 30 September 2020, and the details submitted with it including drawing no. 459616-2, Site Location Plan ref NGL283779, Block Plan, subject to the standard conditions laid out at Paragraph M.2(3) of Schedule 2, Part 3, Class M of the GPDO and the following additional condition:
 - 1) The materials to be used in the external surfaces of the building shall match those used in the existing building.

Preliminary Matters

2. There are minor variations in the description of the proposed development as given on the application form and subsequent documents. I have used the description as given on the appeal form as this accurately describes the proposal.
3. The Town and Country Planning (Use Classes) Order 1987 (UCO) has been amended so that, from 1 September 2020, use class A1 (and a number of other classes) falls within class E of Part A, Schedule 2 of the UCO. However, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 provide that for the 'material period' beginning 1 September

2020 and ending on 31 July 2021, any references to uses or use classes specified in the Schedule to the UCO are to be read as meaning the uses or use classes that applied on 31 August 2020 for the purposes of making a prior approval application. The application was made during that 'material period' and I have determined this appeal on that basis.

4. Class M of the GPDO has been superseded by Class MA. However, the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) Order 2021 sets out that the amendments do not apply in relation to applications made under Part 3 of Schedule 2 to the GPDO prior to 21 April 2021. The application was made prior to that date and I have determined this appeal on that basis.

Main Issues

5. Schedule 2, Part 3, Class M of the GPDO provides for a permitted development right for the change of use of a building falling within use class A1 (shops) to class C3 (dwellinghouses). This is subject to limitations and conditions, as set out in subsequent paragraphs of Class M of the GPDO.
6. The appeal site is within a small parade of shops, and it is common ground between the parties that it is not in a key shopping area. Prior approval was refused on the ground that the proposal fails to meet the conditions set out in paragraph M.2(1)(d)(i) of the GPDO, as the Council considers that no evidence has been provided to demonstrate that there is no reasonable prospect for the building to continue to contribute to the commercial viability of the local neighbourhood centre, and that loss of the retail unit would be detrimental to the provision of retail services.
7. On that basis, the main issues are:
 - Whether there is a reasonable prospect of the existing building being used for Class A1 (shops) purposes; and if so
 - Whether the proposal is undesirable, having regard to the relevant test set out in the GPDO.

Reasons

Prospect of Use

8. The appeal site was vacant at the time of my visit. The appellant refers to the difficulty of establishing a commercial business in this parade and refers to a number of failed businesses, although this evidence is anecdotal. He also refers to the site being marketed for a period of 4 years without success, however there is no substantive evidence in respect of the basis on which the site was marketed. Although a nearby unit has consent to change to a dwelling, other units in this parade were occupied on a commercial basis. On the basis of the evidence before me, it has not been demonstrated that there is no reasonable prospect of the existing building being continued to be used for A1 purposes.

Whether the change of use is undesirable

9. On the basis of my conclusion on prospect of use, the proposal falls to be assessed against the first part of paragraph M.2(1)(d)(i). This requires an assessment of whether it is undesirable for the change of use to occur, having regard to the impact on the adequate provision of shops of the sort that may

be provided by a building falling within Class A1 (shops) or Class A2 (financial and professional services).

10. Of the units within this parade of shops, one has approval for a change of use to a dwelling. Based on evidence provided by the Council and my own observations, the other units can be used for retail or commercial uses, including a retail use at 136 Gallants Farm Road. No 136 was closed at the time of my visit, and the appellant refers to this business being closed for a significant period of time. However, in planning terms, there is nothing to prevent No 136 from being brought back into use, and the parade could therefore continue to provide a retail and service function in the area. Furthermore, the appeal site is within convenient walking distance of a larger range of shops and services in East Barnet and Russell Lane.
11. On the basis of the above, whilst the appeal proposal would diminish the retail and service offer of this parade, this would lead to minimal, if any, harm to the ability of the community to meet its needs. As such, the proposal would not be undesirable having regard to the impact on the adequate provision of facilities of the sort that may be provided by a building falling within Class A1.

Conclusion

12. For the reasons given above, I conclude that the appeal should be allowed, and that approval should be granted for the proposal. 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. A further condition in respect of the use of materials is necessary in the interests of the character and appearance of the area.

David Cross

INSPECTOR