



Appeal Decision

Site visit made on 9 March 2022

by Andrew Owen MA BA(Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 March 2022

Appeal Ref: APP/W2465/W/21/3285847

551 Saffron Lane, Leicester LE2 6UN

- 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 & Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO').
 - The appeal is made by Mr A Singh against the decision of Leicester City Council.
 - The application Ref 20211606, dated 28 June 2021, was refused by notice dated 20 August 2021.
 - The development proposed is notification of change of use of first floor from shop (Class A1/E) to two self-contained flats (Class C3) with natural light in all habitable rooms.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class M, paragraph M.2 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use of first floor from shop (Class A1/E) to two self-contained flats (Class C3) at 551 Saffron Lane, Leicester, LE2 6UN in accordance with the terms of the application, Ref 20211606, dated 28 June 2021, and the details submitted with it, pursuant to Article 3(1) and Schedule 2, Part 3, Class M, paragraph M.2 including plan no. 557SL-02

Preliminary Matters

2. Since the time of the submission of the original application, the GPDO has been amended. The development would no longer be covered by Class M but would instead be covered by Class MA. However, the transitional arrangements set out in the Schedule to the Town and Country Planning (General Permitted Development) (England) (Amendment) (No. 2) Order 2021 allow for applications submitted before 1 August 2021 to be considered as if the amendments had not been introduced. I have considered the appeal on that basis.
3. During the determination of the application two plans were submitted; one showing the conversion of the first floor to two flats, and another showing a conversion to three flats. The appellant confirmed to the Council that the scheme showing two flats was the one he wished to progress, and hence it is that scheme which is subject of the appeal.

Reasons

4. Class M, as it was at the date of the application's submission, allowed for the change of use of a building falling within Class A1 to a use falling within Class C3. This was subject to the limitations set out in section M.1 and the conditions

in M.2. The Council do not dispute that the development would meet the criteria in M.1 and conditions in M.2.

5. Instead, the Council consider that the development would not constitute a change of use from A1 to C3 because the proposed units are accompanied by a communal space and hence they are not independent dwellings and so are not C3 uses.
6. However, in most flatted developments there are communal areas such as hallways or stairs and these do not prevent the dwellings from being considered self-contained. Furthermore, from the plans, the units would have all necessary facilities within them including bedspace, a kitchen area and a bathroom and so would have limited need for a communal area such as that shown. The communal area in this case is larger than one would usually find and would appear to be an area of floorspace left over from the conversion. Nonetheless there is no reason why the provision of communal space prevents the dwellings from being considered as self-contained units, particularly as all usual domestic needs would be met by the facilities within the flats.
7. Consequently, I consider the proposal would have fallen within the definition of permitted development set out in Class M of Part 3 to Schedule 2 of the GPDO, and therefore would constitute permitted development.

Other Matters

8. The Council also refer to paragraph W of Part 3, Schedule 2 of the GPDO which sets out the prior approval procedure and which, in paragraph (3), allows for the Council to refuse an application where the developer has provided insufficient information to enable the Council to establish whether the proposal complies with the conditions. From the details provided in the Council's appeal statement it is apparent that the correct plans were not submitted with the application forms. However they were submitted around five weeks before the Council's determination, giving the Council ample time to consider them before the statutory time frame. Given this chronology and the absence of any further requests for information by the Council, it seems the Council did have sufficient information to make an informed decision.

Conditions

9. The Council have suggested three conditions. It is not necessary to impose the condition requiring the development to be completed within three years as that is inherent in the conditions in paragraph M.2. Similarly, the condition specifying the approved plan is not necessary as the plan is included within the terms of the decision. I also do not consider the condition requiring the provision of details of cycle parking is necessary. Cycle parking is already shown on the plans, and even if this parking was not provided, there is ample room for a resident to park a cycle should they need to such that it need not be secured by a planning condition.

Conclusion

10. For the reasons given above, I conclude that the appeal should be allowed and prior approval be granted.

Andrew Owen

INSPECTOR