



Appeal Decision

Site visit made on 12 April 2022

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 April 2022

Appeal Ref: APP/N5090/W/21/3285760

42 Rosemont Avenue, North Finchley, London N12 0BX

- 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 O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Subothini Ganesamoorthy against the decision of the Council of the London Borough of Barnet.
 - The application Ref 21/3499/PNO, dated 23 June 2021, was refused by notice dated 23 August 2021.
 - The development proposed is 'conversion of office building into 2 bedroom flat'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether or not the proposal would be permitted development.

Reasons

3. The appellant made the application for Prior Approval using an application form concerning Class M of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) ('the GPDO'). At the time of the application, Class M covered change of use to dwelling houses from shops; financial and professional services; takeaways, betting office; pay day loan shop; laundrette; or a mixed use combining use as a dwellinghouse with any of these uses.
4. However, the Council assessed the proposal against Class O of Part 3, Schedule 2 of the GPDO which covers change of use from a use falling within Class B1(a)(offices) of the Schedule to the Use Classes Order to dwellinghouses. From the evidence before me, including details of planning permissions which were granted for use of the building as Class B1 office use¹ ('the B1 Permissions'), the existing use of the appeal building is Class B1 office use rather than any of the uses listed within Class M, and the proposal would more appropriately have been considered under Class O rather than Class M.
5. In any event though, Article 3(4) of the GPDO specifies that nothing in this Order permits development contrary to any condition imposed by any planning permission granted or deemed to be granted under Part 3 of the Act otherwise than by this Order. The Council refers to conditions imposed on the B1 Permissions which state that 'the premises shall be used for B1a and for no

¹ Application refs 15/05164/FUL and 19/0662/PCU

other purpose (including any other purpose in Class B of the Schedule to the Town and Country Planning (Use Classes) Order, 1987, or in any provision equivalent to the Class in any statutory instrument revoking and re-enacting that Order with or without modification’.

6. In my view, the wording of the conditions is clear in setting out that the premises shall only be used for B1a and for no other purpose, restricting future development. Moreover, the appellant has not disputed that these conditions on the B1 permissions are applicable to the existing use of the appeal building, nor disputed that they would act to restrict permitted development rights for change of use. The proposed change of use of the building to a dwellinghouse would be contrary to these conditions, and I find in these circumstances that through the operation of Article 3(4), the conditions on the B1 permissions would exclude rights for changes of use under Part 3 of Schedule 2 to the GPDO.
7. I note that there would be no external alterations to the building, but I nevertheless conclude for the above reasons that the proposal would not be permitted development under the GPDO.

Other Matters

8. The Council has additionally raised concerns in relation to the transport and highways impacts of the development and the provision of adequate natural light in all habitable rooms, and further that the building had not been in use as an office at the relevant date stipulated by the limitation at O.1(b) of Class O. However, it is not necessary for me to consider these matters further as they could not alter my conclusion that the proposal would not be permitted development.

Conclusion

9. For the reasons given above, I conclude that the appeal should be dismissed.

J Bowyer

INSPECTOR