
Appeal Decision

Site visit made on 12 May 2022

by D M Young JP BSc (Hons) MPlan MRTPI MIHE

an Inspector appointed by the Secretary of State

Decision date: 21st June 2022

Appeal Ref: APP/V5570/W/22/3290096

237 Caledonian Road, London N1 1ED

- 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 MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Andrew Panayi against the decision of the Council of the London Borough of Islington.
 - The application Ref P2021/2661/PRA, dated 2 September 2021, was refused by notice dated 10 November 2021.
 - The development proposed is notification of prior approval for the change of use of existing retail unit to a residential unit at basement and ground floor (including mezzanine floor).
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class MA, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the for the change of use of existing retail unit to a residential unit at basement and ground floor (including mezzanine floor) at 237 Caledonian Road, London N1 1ED in accordance with the terms of the application Ref P2021/2661/PRA, dated 2 September 2021, subject to the following conditions:
 - 1) The development hereby approved shall be carried out in accordance with the following approved plans: 8331/101, 8331/102 and 8331/103.

Main Issue

2. The main issue is whether the proposal would comply with the relevant requirements of Class MA of the General Permitted Development Order (GPDO).

Reasons

Barnsbury Conservation Area

3. The Council's first reason for refusal alleges that the proposed change of use would have a detrimental impact on the character and sustainability of the Barnsbury Conservation Area (BCA) and as such would conflict with the condition in paragraph MA.2(e).
4. This provides that where the building is located in a conservation area, and the development involves a change of use of the whole or part of the ground floor, the developer must apply for a determination as to whether prior approval will

be required with regards to the impact of the change of use on the character or sustainability of the conservation area.

5. The part four/part one-storey appeal building is situated to the western side of Caledonian Road, occupying a corner plot at the junction with Stanmore Street. It is set within a mixed-use area and like many of the surrounding buildings has a commercial unit at ground floor level with residential flats on the upper floors. This appeal relates to part of the ground floor and basement of the building.
6. The Appellant has clarified that there would be no change to the external fabric of the building with internal blinds or curtains providing privacy to future occupiers. Despite that, I do share the Council's concern that the removal of an active commercial unit from the Caledonian Road frontage could have a negative effect on the character of the BCA. Such concerns are supported by paragraph 10.3 of the Design Guide which highlights the importance of active shopping frontages to the character of the BCA. In my view, that 'character' is not defined solely on the basis of simple aesthetics. Human activity and the way people interact with their environment are also important considerations. So, while it might be possible to convert all the shops along Caledonian Road to a residential use without altering their appearance, such a change would have a profoundly negative impact on the essential character of the BCA by diminishing the existing degree of human activity and interaction.
7. Notwithstanding the above, the unit in this case has been vacant for a number of years. Even when it was in use, it was not a shop and therefore unlikely to have generated the comings and goings one might typically expect from a retail use. Moreover, the Appellant has advanced a number of persuasive arguments as to why the size and layout of the unit make it inherently unsuited to a future retail use. These considerations lead me to the conclusion that the change of use of this particular unit to a residential use would not materially affect the character or sustainability of the BCA.
8. The Council is critical of the lack of marketing evidence to support the change of use. However, in that regard the requirements of Policy DM4.6b of the Islington Development Management Policies DPD go beyond those set out under Class MA of the GPDO on which my determination must be made.
9. In light of the foregoing, I conclude that the change of use accords with the requirements of paragraph MA.2(e) of the GPDO.

Previous Use

10. Class MA of the GPDO permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1.
11. Under paragraph MA.1.(b) development is not permitted if, for a continuous period of at least 2 years prior to the date of the application for prior approval, the building was not in a specified use. The specified uses include those uses in Class E (since 1 September 2020) of the Town and Country Planning (Use Classes) Order 1987 (as amended).
12. Class E(d) includes "*indoor sport, recreation or fitness, not involving motorised vehicles or firearms, principally to visiting members of the public*". The

Appellant confirms that the last use of the appeal site was a yoga studio which was granted planning permission on 11 July 2016¹. Evidence has been submitted² which demonstrates that the yoga studio was in use between May 2017 and May 2019. According to the Appellant the use operated until 23 March 2020. These dates are consistent with the photographs of the unit taken from Google Streetview.

13. I am therefore satisfied that the appeal building was in use as a yoga studio for a continuous period of at least 2 years prior to the date of the application for prior approval. Accordingly, I find that the requirements of MA.1 (1)(b) of the GPDO are met.

Conclusion

14. On the evidence before me it has, on balance, been demonstrated that the change of use would not harm the character or sustainability of the BCA. It has also been demonstrated that the appeal building was in Class E for the two years preceding the date of application to the Council. I therefore find that the proposal would be permitted development and the appeal is allowed accordingly.
15. The Council suggested a condition which would prevent future occupiers from obtaining residential parking permits. However, the information submitted in support of the condition is scant and it is not clear from the reasoning provided whether such a restriction is supported by a development plan policy nor indeed whether parking permits in the area are currently oversubscribed. Accordingly, and notwithstanding the comments made by the Council's Traffic and Highways Officer, I cannot be sure the condition is necessary to make the development acceptable.

D. M. Young

Inspector

¹ LPA Ref: P2016/1124/FUL

² See Appendix D to the Appellant's Grounds of Appeal