



Appeal Decision

Site visit made on 24 January 2023

Lewis Condé Msc, Bsc, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 February 2023

Appeal Ref: APP/V5570/W/22/3305765

96 Holloway Road, Islington, London N7 8JG

- 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 MA of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Mr Avi Matyas, Smartrose Estates Limited, against the decision of London Borough of Islington.
 - The application Ref P2022/2286/PRA, dated 10 June 2022, was refused by notice dated 3 August 2022.
 - The development proposed is described as 'Conversion of approximately 47 square metres of existing floorspace, previously used in association with a larger medical centre, to a single studio residential unit'.
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Decision

1. The appeal is allowed and prior approval is granted for the change of use of ground floor and basement levels from medical centre (Class E) to residential (Class C3) to provide 1x studio unit at 96 Holloway Road, London, N7 8JG in accordance with the terms of the application, Ref P2022/2286/PRA, dated 10 June 2022, subject to the following condition:
 - 1) The development hereby permitted shall be carried out in accordance with the following approved plans: Site Plan (Scale 1:1250); Proposed Plans Drawing No. HR96 05; and Elevations Drawing No. HR96 07B.

Preliminary Matters

2. The description of development in the banner heading above is taken directly from the original application form. However, the Council subsequently amended the description to prior approval for "the change of use of ground floor and basement levels from medical centre (Class E) to residential (Class C3) to provide 1x studio unit". This is a more accurate reflection of the proposal and I have therefore determined the appeal on this basis.
3. Class MA of the Town and Country Planning (General Permitted Development) (England) Order (as amended) (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.
4. The provisions of the GPDO do not require regard to be had to the development plan. I therefore only had regard to the policies of the Council's development plan in so far as they are material to the matters for which prior approval is sought.

Main Issue

5. The main issue in this appeal is whether the proposal would be permitted development under Schedule 2, Part 3, Class MA of the GPDO. In particular, it is necessary to consider the following criteria of Class MA:
 - a) Whether or not it would be undesirable for the unit to change to a use falling within Class C3 (dwellinghouse) having regard to its impact on the character and sustainability of the St Mary Magdalene Conservation Area (MA.2(2)(e)); and
 - b) Whether or not all habitable rooms of the dwellinghouse would be provided with adequate natural light (MA.2(2)(f)).
6. There is no dispute that the other criteria of Class MA are satisfied. As such, there is no need to give them further consideration in this decision.

Reasons

Conservation Area

7. The appeal site comprises a groundfloor and basement unit on the corner of Holloway Road and Ronald's Road. It sits within a frontage containing largely retail units at groundfloor level. I understand the appeal site previously formed part of a medical centre that extended across nos. 94 – 96 Holloway Road. However, following the closure of the medical centre the properties have been separated and no.94 has secured planning permission for redevelopment including a retail unit at groundfloor level.
8. Holloway Road acts as a principle north/south route and an important commercial centre. This is reflected in its designations in both the Highbury Corner & Holloway Road Core Strategy Key Area and the Lower Holloway Local Shopping Area within the Council's Development Plan.
9. The site is also located within the St Mary Magdalene Conservation Area (CA). The CA covers an extensive area and therefore has variations in its architectural and historic characteristics. However, this part of the CA is primarily characterised by Holloway Road being a historic throughfare that is flanked to both sides by a range of historic buildings of traditional form, scale and materials. At the time of my site visit, the street was also alive with human activity. The significant number of commercial ground floor retail uses adds to this activity, providing a sense of vibrancy, that reinforces the importance of the historic route. Accordingly, despite no external alterations being proposed, the loss of a commercial unit from a prominent corner location is still capable of harming the character or sustainability of the CA.
10. I am informed that the appeal property has been vacant since mid-2020, with little market interest. The length of vacancy is not disputed by the Council. Despite this, there is a lack of evidence to demonstrate what, if any, attempts had been made to market the unit at an appropriate rent or if any expressions of interest have been forthcoming. Nevertheless, such information is not a requirement under the terms of the GPDO.
11. Whilst I am mindful that the previous use of the appeal site as a medical centre may have attracted significant levels of footfall, the site formed part of a much larger unit. The current premises suffers from several constraints that I

recognise would make it unattractive for commercial operations. This includes its limited street frontage, its access arrangements and the available floorspace at ground floor level. I therefore appreciate that the property is unlikely to be of interest to most commercial tenants. The vacant nature of the premises, including the external roller shutters seemingly being almost constantly drawn down, also does not positively contribute to the streetscene.

12. Furthermore, I have not been provided with details of the vacancy rates for commercial properties along the street, but during my visit (which I appreciate was a snapshot in time) the commercial centre, on the whole, appeared to be heavily used and vibrant.
13. Overall, given the scale and nature of the appeal premises, I do not find the loss of the commercial use would adversely impact on the character or sustainability of the St Mary Magdalene Conservation Area.

Adequate Natural Light

14. Paragraph MA.2(f) of the GPDO sets a requirement that development under Class MA must provide adequate natural light to all habitable rooms of the proposed dwellinghouse(s).
15. I recognise that what constitutes a habitable room often varies between different legislation, policy, and guidance documents. However, the GPDO sets out a specific definition of habitable rooms for the interpretation of Schedule 2, Part 3¹. It is on this basis that the appeal scheme should therefore be determined.
16. The definition within the GPDO states that “*habitable rooms’ means any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms*”.
17. The proposed floorplans demonstrate that the basement would contain only a kitchen, storage/laundry room and bathroom. The appellant further indicates that the provision of a dining table or furniture in the basement would not be feasible as it would prevent circulation or access to the various rooms. From the submitted plans and my observations on site, this appears to be a reasonable view to reach. As such, I consider the use of the basement would be solely for cooking purposes, or the use of laundry, bath and toilet facilities.
18. The only habitable room(s), as per the definition within the GPDO, would therefore be located at groundfloor level and would be served by generous windows. I am therefore satisfied that adequate natural light would be provided to all habitable rooms in the proposed dwelling.

Other Matters

19. My attention has been drawn to an appeal decision² for a similar development within the Borough. I have been provided with only limited information of that appeal. However, I agree with the Council that the appeal referred to is not directly comparable to the scheme before me. This is due to the difference in site locations, the previous uses of the sites and likely associated footfall. In any case, the appeal before me has been determined on its own merits.

¹ See 'Interpretation of Part 3' at Paragraph X, Schedule 2, Part 3 of the GPDO.

² APP/V5570/W/22/3290096.

Conditions

20. Paragraph W(13) of the GPDO allows for the grant of prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval. The Council has suggested four conditions should prior approval be granted.
21. As paragraph MA.2(5) of the GPDO stipulates that the development shall be complete within a period of 3 years, a condition is not required in this regard. Similarly, it is not necessary to attach a condition setting out the primary use of the dwellinghouse under Class C3 of the Use Classes Order, given that this is the specific use sought and permitted under Class MA.
22. The provisions at Paragraph W(12) require that development must be carried out in accordance with the approved details. I have attached a condition setting out the approved plans/drawings in the interest of clarity and certainty.
23. The Council has also highlighted policies of its Core Strategy 2011 and Development Management Policies 2013 that establish new residential developments should be car free. A condition is therefore suggested that would prevent occupiers of the proposed development from securing residential parking permits. However, the GPDO does not require regard to be had to the development plan. There is also limited evidence before me to suggest that such a condition is necessary, having regard to current capacity for permit parking in this specific area or the transport impacts of the site, including safe access. Therefore, based on the information before me, I do not consider the condition to be reasonable or necessary.

Conclusion

24. For the reasons given above, the appeal is allowed, and prior approval is granted.

Lewis Condé

INSPECTOR