



Appeal Decision

Site visit made on 20 February 2023

by M Cryan BA(Hons) DipTP MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 15 JUNE 2023

Appeal Ref: APP/G5180/W/22/3301696

87A Beckenham Lane, Bromley, Kent BR2 0DN

- 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 G of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended).
 - The appeal is made by Elizabeth Werry against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/22/00968/CUETC3, dated 5 March 2022, was refused by notice dated 28 April 2022.
 - The development proposed is a change of use from part of existing shop unit (Class E) to one flat (Class C3).
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Decision

1. The appeal is dismissed.

Procedural and Preliminary Matters

2. The description of development in the banner heading above is taken from the appeal form, although I have changed the description of the existing shop unit from Use Class A1 to Use Class E so that it reflects the current position under the Use Classes Order¹. I have also omitted the reference to the General Permitted Development Order ("the GPDO") as it is not descriptive of the proposal.
3. The title of the decision notice issued by the Council indicated that prior approval had been refused under Schedule 2, Part 3, Class MA of the GPDO, while the accompanying notes on the decision notice stated that prior approval had been refused under Schedule 2, Part 3, Class C. However, it was clear that these were typographical errors rather than errors of substance, as the relevant officer report and all other information before me referred to Schedule 2, Part 3, Class G, as had been applied for. Those mistakes have not therefore had a significant bearing on my determination of this appeal.
4. Among other things, Schedule 2, Part 3, Class G allows the change of use of a building from a use within Use Class E (commercial, business and service) to a mixed use for any purpose within that Use Class and as up to 2 flats, subject to the conditions and limitations set out in Paragraph G.1. The Council refused to grant prior approval for the proposed development on the grounds that it did not satisfy the prior approval requirements set out in Paragraph G.1.(d) parts

¹ The Town and Country Planning (Use Classes) Order 1987 (as amended)

- (ii), (iii) and (iv) relating to flooding risks, noise impacts, and the provision of adequate natural light in all habitable rooms of the dwellinghouse.
5. However, before considering compliance with the prior approval matters, it is necessary for me to be satisfied that the proposal would be permitted development in the first place.

Main Issues

6. The main issues in the appeal are therefore:
- Whether the proposal would be permitted development under Schedule 2, Part 3, Class G of the GPDO; and
 - If so, should prior approval be granted for the development, having regard to the matters set out in Paragraph G.1.(d) of Schedule 2, Part 3, Class G of the GPDO.

Reasons

Permitted development

7. The appeal relates to a ground floor commercial unit offering computer repairs and services (Use Class E) with a flat on the first floor. The appellant wishes to convert the rear and side parts of the unit (which are currently mostly being used as storage space) to a 1 bedroom, 1 person flat; a retained shop unit of around 30m² would remain within Use Class E.
8. Among the conditions and limitations in Paragraph G.1., part (b) states that “where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat”. The appellant stated on the prior approval application form that the building does not have a ground floor display window, and on the submitted drawings that there are, or would be, “no display windows in new shop unit”. This assertion was not challenged by the Council in determining the prior approval application, but I saw on my site visit that there is a display window to the shop unit.
9. I therefore asked both main parties to provide a short comment as to whether or not they considered that the appeal scheme complied with the restriction in Paragraph G.1.(b); both acknowledged in response that there is a ground floor display window. I accept that, as the appellant commented, no objection had been raised in on this point previously. However, in determining a prior approval appeal such as this it is necessary for me to be satisfied that the proposal would be permitted development under the relevant part and class of the GPDO. In this case, the facts that i) the building has a ground floor display window, and ii) part of the ground floor would be used as a flat, mean that the proposed change of use would not be permitted development.

Prior approval matters

10. I have found that the proposal would not be development permitted by Schedule 2, Part 3, Class G of the GPDO. It is therefore not necessary for me to consider the detailed prior approval matters set out in Paragraph G.1.(d), as this could not change my overall decision.

Other Matters

11. In response to my request for clarification relating to Paragraph G.1.(b), the appellant suggested that it would be possible to alter the layout of the ground floor of the appeal property in such a way that the display window limitation would not have effect. That may or may not be the case, but this does not outweigh the fact that the proposal which is before me would not be permitted development.
12. Nothing in my decision would also prevent the appellant applying for planning permission for the same development as has been proposed. In those circumstances the Council would have to fully consider the planning merits of the scheme, including taking into account any other material considerations which might be put forward. However, in the light of my findings in this appeal it is not necessary, nor would it be appropriate, for me to address those matters in this decision.

Conclusion

13. For the reasons given above, I conclude that the proposal would not be permitted development under Schedule 2, Part 3, Class G of the GPDO. The appeal is therefore dismissed.

M Cryan

Inspector