



Appeal Decision

Site visit made on 19 December 2023

by Bhupinder Thandi BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 February 2024

Appeal Ref: APP/Q5300/W/21/3280786

79 Bounces Road, Edmonton N9 8LD

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Devan Sharma of Omkara Limited against the decision of London Borough of Enfield.
 - The application Ref 21/01190/PIA, dated 26 March 2021, was refused by notice dated 8 June 2021.
 - The development proposed is subdivision of existing ground floor A1 retail shop to create a new C3 1 bedroom flat to the rear of the property.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for subdivision of existing ground floor A1 retail shop to create a new C3 1 bedroom flat to the rear of the property at 79 Bounces Road, Edmonton N9 8LD in accordance with the terms of the application, 21/01190/PIA, including the plans submitted with it.

Preliminary Matters

2. This decision supersedes that issued on 2 August 2022. That decision on the appeal was quashed by order of the High Court. My role now is to redetermine the case afresh in light of any material change in circumstances, but not to review the previous appeal decision.
3. The main parties have had the opportunity to present representations on the case following the quashing of the previous appeal decision and I have taken these submissions into account. I have also considered any relevant evidence previously submitted unless it is expressly superseded by its originator during the redetermination process.
4. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020, amending the Town and Country Planning (Use Classes) Order 1987 have come into force. These amendments revoke the previous Class A uses and create a new broad 'Commercial, business and service' use, under Class E. The appeal site falls into this new Class E, previously occupied as a retail unit falling within shops (A1) use.
5. Nonetheless, the application for prior approval subject of the appeal was submitted and determined in advance of the 31 July 2021 deadline set out

under sub-paragraph (3)(c) of paragraph M.2 to Part 3 of the Town and Country Planning (General Permitted Development) England Order 2015 (as amended) (GPDO). As such, the scheme remains to be determined under Class M of the GPDO and its conditions and limitations.

6. The principle of the development is established by Schedule 2, Part 3, Class M of the GPDO. The prior approval provisions do not require regard to be had to the development plan.
7. Paragraph 10 of Part W of the GPDO requires the local planning authority to take into account any representations made to them as a result of consultation, and to have regard to the National Planning Policy Framework (the Framework) so far as relevant to the subject matter of the prior approval, as if the application were a planning application. My determination of the appeal has been made on the same basis.
8. The revised Framework has been published since the appeal was submitted. My decision is made in the context of the revised Framework, and I am satisfied that no interested party has been prejudiced by my approach.

Main Issue

9. The main issue is whether the proposed development would be granted planning permission by the GPDO with regards to the requirements of paragraphs M.2 (1) (a) transport and highway impacts of the development; (c) flooding risks in relation to the building and (f) the provision of adequate natural light in all habitable rooms of the dwellinghouses.

Reasons

Transport and highway impacts

10. The appeal site is formed of the rear part of a retail unit fronting Bounces Road.
11. The Council acknowledge given the scale of development it is unlikely to result in a significant demand for on street parking or unduly affect the safe and efficient operation of the local highway network. Furthermore, the site is located within an area identified as having a Public Transport Access Level (PTAL) 4 rating which has good/ moderate access to frequent public transport options.
12. Whilst the Council express concerns regarding the internal wall mounted storage for bicycles, it would still be a feature that future occupiers may well find useful and utilise. This would further assist in providing an alternative means of transport other than a private vehicle.
13. The site is located close to Edmonton Green local centre, within convenient reach of day-to-day services and facilities. It is also accessible by different means of transport including by foot and public transport in the form of bus services and nearby railway station. It would therefore be perfectly feasible for occupants to live in the proposed development without the need for a car and who would be able to travel for work, services or leisure by public transport, bicycle or on foot.
14. The proposed development would include a bespoke internal bin cupboard for waste storage. Future occupiers would have to store waste within the flat.

However, taking into account the flats internal arrangement it would likely be occupied by a single person or a couple therefore it is unlikely that they would generate a significant amount of waste. As such, even if refuse bags were placed on the adjoining highway, it would unlikely adversely impact upon highway safety.

15. Therefore, the proposed development would not have a material impact upon the safe and efficient operation of the highway network. The transport and highway impacts of the development would be acceptable complying with the provisions of paragraph M2 (1) (a).

Flooding risks in relation to the building

16. The site falls within Flood Zone 1, which has a low risk of flooding. The Council's concerns stem from the potential risk of groundwater flooding. The appellant has produced a Flood Risk Assessment (FRA) which indicates that the appeal building is set at least 0.51m above the 1 in 100 year plus 35% allowance for climate change flood level and therefore would be satisfactory.
17. The FRA also recommends a number of mitigation measures, including interceptor drains, tanking and non-return flap valves of sewer lines and a Flood Warning and Evacuation Plan (FWEP).
18. The FWEP demonstrates that an appropriate escape route is available in a northerly direction along Chester Road and indicates the route would be well above predicted flood levels.
19. Based on the evidence before me I have no reason to dispute the conclusions set out in the FRA and FWEP and conclude that the risk of flooding to future occupiers would be adequately mitigated.
20. Therefore, the proposed development would accord with the provision of paragraph M2 (1) (c) with regard to the flooding risks in relation to the building.

The provision of adequate natural light

21. The bedroom would be served by a rooflight and the open plan kitchen/ living area would be served by a rooflight and a window in the rear elevation.
22. The appellant has submitted a Sunlight and Daylight Assessment undertaken in accordance with British Research Establishment (BRE) guidance, which indicates that the proposed habitable spaces would exceed the BRE target values in respect of daylight and sunlight. There is nothing before me to dispute the conclusions set out in the assessment.
23. As such, adequate sunlight and natural light in all habitable rooms would be provided in accordance with the provisions of paragraph M2 (1) (f).

Other Matters

24. The representations received in respect of the common areas are not matters for me in consideration of this appeal and are subject to different legislation. As such, I have not paid regard to this in coming to my decision.

Conditions

25. Standard conditions are set out in paragraph M.2 of the GPDO, whilst paragraph W (13) allows further conditions to be imposed that are reasonably related to the subject matter of the prior approval. However, in my judgement it is not necessary to impose conditions beyond the standard conditions.

Conclusion

26. For the reasons set out above the appeal succeeds and prior approval is granted.

B Thandi

INSPECTOR