



Appeal Decision

Site visit made on 6 February 2024

by A Wright BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th February 2024

Appeal Ref: APP/V5570/W/23/3327775

10 Eagle Court, Islington, London EC1M 5QD

- 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 Jonathan Kessel against the decision of the Council of the London Borough of Islington.
 - The application Ref P2023/1374/PRA, dated 12 May 2023, was refused by notice dated 4 July 2023.
 - The proposed development involves the conversion of a ground floor area, not included in any existing or non immediate Article 4 restrictions. The property is not located in a Town Centre, nor does it form part of primary or secondary retail frontages, nor is it part of a Local Shopping Area.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. I have used the description from the original application form as this reflects what was applied for even though it is reflected in the decision notice and appeal form by an alternative description.

Background and Main Issue

3. Article 3(1) and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) permits development consisting of a change of use of a building from a use falling within Class E (commercial, business and service) of the Use Classes Order (UCO) to a use falling within Class C3 (dwellinghouses) of the UCO.
4. Development is permitted under Class MA subject to the limitations set out in paragraph MA.1 and the conditions set out in paragraph MA.2, which include matters in respect of which the developer must apply to the local planning authority for prior approval.
5. The Council refused the prior approval on the basis that it does not meet the condition in paragraph MA.2 (2)(e) relating to the impact of the proposed change of use on the character and sustainability of the Clerkenwell Green Conservation Area.
6. Therefore, the main issue is the impact of the proposed change of use on the character and sustainability of the Clerkenwell Green Conservation Area (CA).

Reasons

7. The appeal site is located on the corner of Eagle Court, which links Britton Street to St John's Lane. It comprises the ground floor of two stock brick buildings, comprising a modern four storey end terrace building and a former townhouse. Immediately adjacent to the site is the entrance to Cowcross Yards, a mixed development of flats, offices and ground floor commercial uses. There are also office and upper floor residential uses on Eagle Court with a training and craft centre opposite.
8. The Clerkenwell Green, Charterhouse Square, Hat & Feathers Conservation Area Design Guidelines 2002 (CADG) are over 20 years old but remain relevant in describing the character and appearance of the CA. Having regard to the CADG, the significance of the CA derives in part from its great variety of uses and the established commercial richness of the area. The site makes a positive contribution to the area as it has a ground floor commercial use.
9. Although Eagle Court is a quiet thoroughfare, mixed commercial uses are clearly prevalent at street level in the vicinity. Indeed, at the time of my site visit, I saw other ground floor units close by were currently being used as offices, with the Goldsmiths Centre and its associated café opposite the site bringing a vibrancy to the immediate area. Accordingly, whilst the proposed refurbishment would not alter the external appearance of the buildings nor harm the significance or setting of any listed or locally listed buildings, the loss of a commercial unit from a corner location would harm the character and sustainability of the CA.
10. The site does not fall within areas covered by the proposed Article 4 direction to remove permitted development rights under Class MA of the GPDO which includes the Central Activities Zone. Although this covers other parts of the CA, the Article 4 direction does not negate the need for prior approval applications outside the direction area to meet the conditions in the GPDO.
11. I note that the site has been vacant since April 2021. Whilst the proposal would bring this vacant unit back into use, there is little evidence of any marketing and limited information to show that the site is not suitable for commercial tenants. Class E permits changes to a wide range of retail, commercial and community related uses. In the present case, there is nothing to suggest that the appeal premises could not accommodate a use within Class E.
12. The townhouse would originally have been in residential use, but it is understood that the ground floor of the adjoining modern building has never been occupied as a residential property. Therefore, the CADG policy allowing ground floor residential uses where the premises were originally designed for residential use has limited relevance.
13. Overall, I conclude that the proposed change of use would harm the character and sustainability of the CA. As such, the proposal would fail to satisfy condition MA.2 (2)(e) of the GPDO and prior approval should not be granted.

Other Matters

14. There is reference to several other matters, including parking, noise, internal daylight, nationally described space standards, flood risk, contamination and fire safety, but I am required to determine the appeal based on the impact of

the proposed change of use on the character and sustainability of the CA as required under the GPDO.

15. I appreciate that a neighbour supports the proposal, but this does not alter the harm that I have found.

Conclusion

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

A Wright

INSPECTOR