



Appeal Decision

Site visit made on 10 July 2024

by C Butcher BSc MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 07 August 2024

Appeal Ref: APP/V5570/W/24/3339750

25-26 Clerkenwell Close, Islington, London EC1R 0AG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) 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 M Bailey against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2023/3166/PRA.
 - The development proposed is the conversion of ground floor to residential use to integrate with existing residential use of remainder of building.
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Decision

1. The appeal is allowed and prior 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 conversion of ground floor to residential use to integrate with existing residential use of remainder of building at 25-26 Clerkenwell Close, Islington, London EC1R 0AG in accordance with the terms of the application, Ref P2023/3166/PRA, subject to the following conditions:

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with drawing numbers: EX.04, GA.00, GA.01, GA.02 and USE.01
- 3) Any dwelling house created through Class MA Permitted Development rights must be primarily used as a dwelling house within the meaning of Class C3 of the Use Classes Order.
- 4) Full particulars and details of a scheme for sound insulation between the proposed residential use and the adjoining public house shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the new residential floorspace.

The sound insulation and noise control measures shall be carried out strictly in accordance with the details so approved, shall be implemented prior to the first occupation of the development hereby approved, shall be maintained as such thereafter and no change therefrom shall take place without the prior written consent of the Local Planning Authority.

Application for costs

2. An application for an award of costs was made by Mr M Bailey against the Council of the London Borough of Islington. This application will be the subject of a separate decision.

Preliminary Matters

3. Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits the change of use of a building and any land in its curtilage from a use falling within Class E (commercial, business and service) to a use falling within Class C3 (dwellinghouses). For development to be permitted it must satisfy the limitations set out at paragraph MA.1 and the conditions at MA.2.
4. The Council has not referenced any development plan policies within its reasons for refusal. However, for the avoidance of doubt, I have not decided this appeal on the basis of the duty in s38(6) of the Planning and Compulsory Purchase Act 2004. Paragraph W of Part 3 sets out the procedure for prior approvals and 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). I have considered the appeal on the same basis.

Main Issues

5. The first reason for refusal provided by the Council relates to the length of time that the property has been vacant. As of March 2024, it is no longer a requirement for the applicant to demonstrate that the property had been vacant for three months prior to the application for prior approval. As such, I have not considered this matter as part of my decision.
6. Therefore, the main issues are: (i) whether the proposed development would preserve or enhance the character or appearance of the Clerkenwell Green Conservation Area; (ii) whether the existing use of the building falls within any of the uses specified within paragraph MA.1(2); and (iii) the effect of the proposed development on the living conditions of future occupiers, with particular regard to noise and daylight.

Reasons

Conservation Area

7. Paragraph MA.2 (2)(e) requires that consideration should be given to the impact of the change of use on the character or sustainability of Conservation Areas.
8. In this instance, the appeal site is located within the Clerkenwell Green Conservation Area. From the evidence before me, and from what I saw when I visited the site, the significance of the Conservation Area, in so far as it is relevant to this appeal, is derived from the value of the suburban development of this part of Islington, and the architectural styles and tastes of the time. It has an aesthetic value due to the appearance of the buildings that comprise the Conservation Area, and the mix of uses which are present. The shop that occupied the ground floor of 25- 26 Clerkenwell Close is now permanently closed. However, the appellant's appeal statement includes photographic

evidence of its appearance when open. Given the modern frontage and proliferation of advertising, the ground floor unit did very little to contribute to the significance of the Conservation Area, even when the shop was open. Since closing, the frontage has become somewhat dilapidated which detracts from the character and appearance of the surroundings.

9. The proposed development would not involve any changes to the external appearance of the ground floor unit. I accept that the mix of uses in the area contributes to its character, and that the Conservation Area Design Guidelines, January 2002 (CADG) seeks to preserve business uses at ground floor level. However, the purpose of the CADG is to protect the character and appearance of the Conservation Area. Given that the ground floor unit made little contribution in this regard when open, it does not seem logical to me to conclude that its change of use would result in harm, either to the building itself as a non-designated heritage asset, or to the wider Conservation Area. Indeed, it is likely that by tidying up the frontage as part of the conversion, the appearance of the building would be improved. Therefore, the overall aims of the CADG would be met. For the same reasons, the proposal would not result in harm to the setting of the adjoining public house, which is also regarded as a non-designated heritage asset.
10. Furthermore, irrespective of the appearance of the ground floor unit, the frontage is of a very limited size and is also located in a reasonably secluded area. Therefore, the loss of this single business unit could not be considered to erode the character of the surroundings to an unacceptable degree.
11. It is not for me to speculate on whether alternative business uses could utilise the ground floor space. Indeed, there is no requirement under the regulations for the appellant to market the site for a period of time. It is also not appropriate for me to speculate on any future planning applications that the appellant may submit to alter the frontage.
12. As a result, I conclude that the proposed development would preserve the character and appearance of the Conservation Area and would not result in harm to its sustainability.

The Use of the Building

13. Based on the approved plans, and the evidence provided by the appellant, including a Valuation Office Agency record, it seems clear to me that the ground floor unit is currently separate to the residential accommodation above, and should be treated as such for planning purposes. The proposed development would include the re-opening of a sealed door space to connect the upper floors to the ground floor.
14. As a result, I am satisfied that the conversion of the ground floor would meet the requirements of paragraph MA.1 (1)(b).

Living Conditions

15. The ground floor unit adjoins the bar area of The Horseshoe public house. I accept that the occupiers of No's 25 – 26 may experience some noise emanating from the bar area when using the ground floor space. However, it is not unusual for public houses to directly adjoin residential buildings and it seems highly unlikely to me that this issue would lead to undue harm in this

instance. Nevertheless, a condition can be imposed to ensure that any disturbance is kept to a minimum.

16. In terms of noise from the street as pub goes leave the premises, this again is not unusual in urban areas, and I do not find that this would affect living conditions to an unacceptable degree.
17. With regards to daylight, I acknowledge that the appellant has not submitted an assessment to consider this matter. However, the ground floor does contain large windows within the primary elevation, and I am entirely satisfied that these windows would allow sufficient daylight to reach the space within.

Conditions

18. In the interests of certainty I have imposed conditions to identify the relevant timescales and plans. A condition has also been imposed to ensure that the appeal site remains in residential use. A final condition requires the submission and approval of a scheme for sound insulation in the interests of living conditions.

Conclusion

19. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

C Butcher

INSPECTOR