



Appeal Decision

Site visit made on 9 December 2024

by **C Skelly BA (Hons) MSc MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 17 January 2025

Appeal Ref: APP/V5570/W/24/3351374

784 Holloway Road, Islington, London N19 3JH

- 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 G of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Singhal against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2024/1547/PRA.
 - The development is change of use of a first floors room from commercial, business and service (Use Class E) to residential use (Use Class C3), to be incorporated into an existing residential units, under "Class G" of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) Order (GPDO) 2015 (as amended)
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. For the purpose of the banner heading above I have taken the description of development from the Council's decision notice as this gives a more concise description of the proposal.
3. The appellant has submitted amended plans as part of their appeal. The procedural guide for planning appeals¹ advises that the appeal process should not be used to evolve a scheme as it is important that what is considered by the Inspector at appeal is essentially the same scheme that was considered by the local planning authority and by interested parties at the application stage. Established case law states that, in considering whether, or not, to accept amendments to a proposal during the appeal process, it must be considered whether the proposed change involves a "substantial difference" or a "fundamental change" to the application and whether the proposed amendments would cause unlawful procedural unfairness to anyone involved in the appeal.
4. The prior approval application was refused on the basis of external alterations to the building which were shown on the submitted plans. The appellant contends that these external changes were an oversight and are not part of the proposed changes. Although this is unfortunate, the revised submitted plans are substantially different to those considered by the Council and were not subject to consultation. I therefore find that neither part of the necessary tests set out in the relevant case law has been satisfied and so I will not accept the amendments.

¹ Procedural Guide: Planning appeals-England (2024)

Accordingly, I have determined the appeal having regard to the plans on which the Council made its decision.

5. Article 3(1) of the GPDO grants planning permission for the classes of development described as permitted development in Schedule 2. Part 3, Class G grants permission for the change of use from Class E to a mixed use for any purpose within that Class and up to 2 flats, subject to limitations and conditions set out in paragraph G.1.
6. The National Planning Policy Framework (the Framework) was revised on 12 December 2024. Those parts of the Framework most relevant to this appeal have not been amended. As a result, I have not sought submissions on the revised Framework, and I am satisfied that no party's interests have been prejudiced by taking this approach.

Background and Main Issues

7. The Council refused the application on the basis that the proposal would not constitute permitted development. It did not consider the proposal against the conditions set out in paragraph G.1(d) of Schedule 2, Part 3, Class G of the GPDO.
8. Accordingly, the main issues are:
 - whether or not the proposal is permitted development by Schedule 2, Part 3 of the GPDO; and
 - if so, whether 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

9. The appeal relates to a three-storey mid terrace property, located on Holloway Road. The property is currently in use as a restaurant on the ground floor and partly to the first floor. Independent access is provided to residential accommodation at first and second floors. Access from the residential kitchen at first floor level is provided to an external terrace area, the other side of which is storage space associated with the restaurant. To the second floor there are three further bedrooms.
10. The application which is the subject to this appeal was a notification under Schedule 2, Part 3, Class G of the GPDO of the intention to use permitted development rights to change the existing storage space on the first-floor level to create an additional bedroom for the flat. The remaining ground floor areas would be retained as use Class E. The Council's position is that prior approval is required because the proposed changes include external alterations to the building.
11. The submitted drawing reference A003 dated 27.04.2024 shows the proposed removal of the window to the kitchen at first floor level and the insertion of a new window to the proposed new bedroom. As such the proposed alterations would materially affect the external appearance of the building. The removal of a window and insertion of another would amount to development under s55 of the Town and Country Planning Act 1990. Therefore, due to the proposed external alterations to

the building, I conclude that the proposal is not permitted development by Schedule 2, Part 3 of the GPDO.

12. Although the appellant contends that these details were submitted in error, for the reasons I have already outlined, I have not accepted these amended plans. Based on the submitted plans I am unable to confirm that the proposal would constitute permitted development.
13. As consideration in relation to prior approval under paragraph G.1(d) is dependent on the outcome of the first main issue, I have no need to consider the detailed prior approval matters in relation to contamination, flooding, impacts from noise, provision of adequate light and arrangements for the storage and management of waste.

Conclusion

14. For the reasons given above, the appeal is dismissed.

C Skelly

INSPECTOR