



Appeal Decision

Site visit made on 20 June 2025

by **A M Nilsson BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 10th July 2025

Appeal Ref: APP/V5570/W/25/3360498

38 Offord Road, Islington, London N1 1DL

- 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 Dennis Williams against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2024/1996/PRA.
 - The development proposed is change of use from Class E to Class C3 studio apartment.
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Decision

1. The appeal is allowed and prior approval is granted under the provisions of Article 3 and Schedule 2, Part 3, Class MA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order) for the change of use from Class E to Class C3 studio apartment at 38 Offord Road, Islington, London N1 1DL in accordance with the terms of application ref P2024/1996/PRA, and the plans submitted with it, subject to the standard conditions set out in paragraphs MA.2 and W(12) of the Order and the following conditions:
 - 1) The residential use shall not commence until arrangements have been made to secure the development as a car-free development in accordance with a detailed scheme or agreement which shall have first been submitted to and approved in writing by the local planning authority. The approved scheme or agreement shall ensure that:
 - i) no occupiers of the approved development shall apply for, obtain or hold an on-street parking permit to park a vehicle on the public highway within the administrative district of the local planning authority (other than a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 or similar legislation); and
 - ii) any occupiers of the approved development shall surrender any such permit wrongly issued or held.Such scheme or agreement shall be implemented prior to the occupation of the development hereby permitted and shall be retained and operated for so long as the use hereby permitted continues.
 - 2) The residential use shall not commence until details of suitable waste management including dedicated residential refuse and recycling enclosures/facilities have been submitted to and approved in writing by the

local planning authority. The approved details shall be provided prior to the first occupation of the development and shall be retained as such thereafter.

Preliminary Matters

2. Class MA of Schedule 2, Part 3, of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) grants planning permission for the change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 of that Order subject to a number of limitations and conditions.
3. Development under Class MA is permitted subject to, amongst other things, the condition that before beginning development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required. This is in relation to, amongst other things, where the building is located in a conservation area, and the development involves a change of use of the whole or part of the ground floor, the impact of that change of use on the character or sustainability of the conservation area; and the provision of adequate natural light in all habitable rooms of the dwellinghouses.
4. The Council's reasons for refusal relate to the impact of the change of use on the character and sustainability of the Barnsbury Conservation Area and the failure to provide adequate natural light in all habitable rooms of the dwellinghouses.
5. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. I have proceeded on this basis.

Main Issues

6. The main issues are therefore whether or not prior approval should be granted having regard to 1) the impact of the change of use on the character or sustainability of the Barnsbury Conservation Area, and 2) the provision of adequate natural light in all habitable rooms of the dwellinghouse.

Reasons

Character or sustainability of the Barnsbury Conservation Area

7. The appeal property comprises the ground floor and basement of 38 Offord Road. It is located in the Barnsbury Conservation Area (BCA) which is characterised as forming a large area with many of the best examples of formal late-Georgian/early-Victorian residential developments in London. The predominant character of the BCA is residential. The Barnsbury Conservation Area Design Guidelines (2002) also identifies that the shopping frontages on Liverpool Road and Caledonian Road which provide local services, make an important contribution to the character of the area.
8. The property is located on a corner junction between Offord Road and Crescent Street. Of the four properties situated on this crossroad, three (including the appeal site) are in commercial use with the remaining property appearing to be in residential use. At the time of my visit, two of these three properties (including the appeal site) appeared to be vacant.

9. I acknowledge that the vibrancy of the more commercialised areas such as Liverpool Road and the nearby Caledonian Road can positively contribute to the character and sustainability of the BCA. The appeal site is however set back from the nearest commercial frontage in a location where there is an emphasis on residential properties. The ambiance is notably quieter with less activity.
10. Although the proposed use would not be the use for which the building was designed, neither is the current use, and I see no reason why its loss would adversely impact upon the character or sustainability of the BCA. The appellant has given a reasonable explanation surrounding the commercial viability of the unit, including marketing information. The Council have identified this small area as containing a cluster of home improvement businesses. It is not clear however how this adds to the special character of the BCA and there is no assurance that such uses could be retained even if the appeal were dismissed.
11. The Council identify the positive contribution of the glazed tile frontage, however there are no alterations proposed to the frontage for me to consider.
12. The Council have referred to an appeal¹ where an Inspector dismissed the appeal under Class MA due to the impact on the character and sustainability of the Clerkenwell Green Conservation Area. It was highlighted that despite being vacant for almost 3 years, there was little evidence of any marketing and limited information to show that the site was not suitable for commercial tenants. It was considered that there was nothing to suggest that the appeal premises in that case could not accommodate a use within Class E.
13. Although I do not have full details of the case, it is clear that the appeal referred to by the Council is in a different context. Given that I have found that the proposed development in this case would not have an adverse impact on the character or sustainability of the BCA, the appeal referred to by the Council does not carry sufficient weight to outweigh my findings. Furthermore, I have determined this appeal on its own individual planning merits.
14. I therefore conclude that, having regard to paragraph MA.2(2)(e), the proposed development would not have an adverse impact on the character or sustainability of the BCA.
15. Having regard to S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have paid special attention to the desirability of preserving or enhancing the character or appearance of the BCA. For the reasons given above, the proposal would preserve the character and appearance of the BCA.

Living conditions

16. Paragraph MA.2(2)(f) requires the determination of whether prior approval will be required as to the provision of adequate natural light in all habitable rooms of the dwellinghouses created.
17. In the proposed dwellinghouse, the Council's concern relates to the provision of natural light to the basement level. This is shown on the proposed plans to comprise a games room and bathroom. The Order defines habitable rooms as rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms,

¹ APP/V5570/W/23/3327775

corridors, laundry rooms, hallways or utility rooms. The games room and bathroom would not constitute habitable rooms.

18. The Council consider that it is likely that the room would be used as a habitable room which would not be appropriate given the lack of natural light it would receive. Although the room is relatively large, when considered as a percentage of the total floorspace, I have determined the appeal based on the description of development and the submitted plans. These show how the basement would not comprise habitable rooms. It would therefore be unjustified to dismiss the appeal based on adequate natural light to the basement.
19. Having regard to the habitable rooms in the proposed property, it is not in dispute that these provide adequate levels of natural light. Based on the submitted evidence, I have no reason to form a different view.
20. I therefore conclude that, having regard to paragraph MA.2(2)(f), the proposed development would provide adequate natural light in all habitable rooms of the dwellinghouse.

Conditions

21. I have considered the Council's suggested conditions. Conditions requiring commencement within three years, or the use as a dwellinghouse (Class C3) are not necessary as these are standard conditions of development under Class MA. Similarly, a condition requiring the development to be carried out in accordance with the approved plans is not necessary as this is a standard condition of paragraph W(12).
22. Paragraph W(13) allows conditions reasonably related to the subject matter of the prior approval to be imposed.
23. Having regard to the transport impacts of the development and policies aimed at securing developments to be car-free, in the interests of sustainable travel, I have imposed conditions requiring the development to be car-free and the submission of waste storage arrangements. I have amended the suggested wording of the conditions to accord with the guidance of imposing conditions as set out in the National Planning Policy Framework and the Planning Practice Guidance.
24. Whilst the impacts of noise from commercial premises on the intended occupiers of the development is a relevant consideration, there is no substantive evidence to suggest that this is a pertinent matter in this appeal that would warrant the imposition of the sound insulation condition specified by the Council. Furthermore, this matter would be covered by other legislation.

Conclusion

25. For the reasons given above, and having had regard to all other matters raised, I conclude that the proposal would be permitted development under Schedule 2, Part 3, Class MA of the Order. The appeal should therefore be allowed, and prior approval should be granted.

A M Nilsson

INSPECTOR