



Appeal Decision

Site visit made on 18 August 2025

by K Williams MTCP (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 September 2025

Appeal Ref: APP/V5570/W/25/3364317

271 Upper Street, London, N1 2UQ

- 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 Huseyin Guzel against the decision of the Council of the London Borough of Islington.
 - The application Ref is P2025/0300/PRA.
 - The development proposed is prior approval for the change of use of the first second and third floors from class E (office) to 2no self-contained residential flats (Class C3).
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Decision

1. The appeal is dismissed.

Background

2. The appellant submitted an application to determine if prior approval was required for the change of a use from a commercial, business and service (Use Class E), or a betting office or pay day loan shop to a mixed use including up to two flats (Use Class C3). 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 GPDO) permits this.
3. The prior approval procedure for all Classes under Part 3 is provided at paragraph W. Under paragraph W (11) there is a requirement that development must not begin before (a) the receipt by the applicant from the local planning authority of a written notice of their determination that such prior approval is not required; or (b) the receipt by the applicant from the local planning authority of a written notice giving their prior approval. This also applies even if the development was begun during the appeal process.
4. A rear extension had also been constructed at the time of my site visit. I am aware that this is subject of a separate undetermined appeal¹. This was not included on the plans when the application was before the Council, nor has it been shown on the plans before me.

Main Issues

5. The main issues is whether the prior approval appeal was made before beginning the development as required by the terms of the permitted development rights under Article 3 (1), Schedule 2, Part 3, Class G, Paragraph W (11) of the GPDO.

¹ APP/V5570/W/25/3369480

- whether the proposed development falls within the terms of the permitted development rights under Article 3 (1), Schedule 2, Part 3, Class G of the GDPO.

Reasons

6. The proposal sought to retain the existing commercial use on the ground floor and proposed a one-bedroom flat on the first floor and a three-bedroom flat on the second and third floors. The ground floor commercial unit has its own separate access from the upper floors of the building. The Council contends that the development has commenced as a material change in the use from commercial to residential has already taken place.
7. I observed that the first floor unit contained a living area with a settee, dining table, ironing board, television, coat stand, shoes and shoe boxes. The kitchen area was fully fitted, it contained food such as pasta, herbs and spices. The shower room had a shower in it. The bedroom had a made double bed and this contained a short run of stairs linking it to the extension which is not included in this application.
8. The second and third floor unit kitchen was also fully fitted and contained food and alcohol. The living room contained a settee and there were food items in a bowl on the coffee table. A large television was also on the wall. Lots of items were being stored such as suitcases, shoe boxes, toiletries, skin care items, mirrors, books, a dressing gown, shoes and shopping bags. Beds were made up, and a separate dressing room with fitted wardrobes was also in place, alongside a large bathroom with a bath and shower.
9. The fittings and furniture items I observed are evident in the Council's photographs, such as the table, settee and bed from the first floor. The bed from the third floor also seemed to match what I saw. There are also items such as chairs, mirrors, shoes in the Council's photos, which closely resemble items I observed.
10. The appellant's evidence includes marketing information from three companies. The success or otherwise of marketing, is not a matter that is under consideration as part of the prior approval process. However, the brief descriptions provided by letter from Anthea lettings describes a kitchenette and WC facilities. The description provide by Narts only refers to a single kitchen and WC facilities. The letter from Yurdagul Estates Ltd does not refer to any kitchen facilities and refers to WC facilities on each floor. The layout and extent of facilities I observed did not fully align with these descriptions within the marketing letters, particularly as there are two fully fitted kitchens, showers and baths alongside the WC facilities.
11. In *Gravesham BC v SSE and O'Brien*⁷ [1983] JPL 307 it was accepted that the distinctive characteristic of a dwellinghouse was its ability to afford to those who used it the facilities required for day-to-day private domestic existence. Both of the units have private entrances, fitting and furnishings were of a very high level. There were suitable window coverings, plug sockets, light fixtures and fittings, flooring and sanitary facilities. Both units would be capable of day-to-day private domestic existence.
12. Under s55 of the Town and Country Planning Act 1990 development means the carrying out of building, engineering, mining or other operations in, on, over or

under land, or the making of any material change in the use of any buildings or other land. A change of use may have been begun even if the use itself has not started. It was held in *Impey v SSE & Lake District SPB* [1981] JPL 363 that, to decide when the use of a building is changed to a dwellinghouse, regard must be had to two factors: the physical state of the premises and the actual, intended or attempted use. Neither factor is decisive, and it should not be assumed that a change of use has not occurred simply because a building is unoccupied.

13. The submission of the business rate information whilst it is a material consideration is not decisive. Planning and tax systems do not necessarily take into consideration the same factors, so just because business rates are paid does not mean that there has not been a material change for planning purposes occurring. Although I understand that the floors and officer had been vacant for some time, there is very little if anything within either of the units that could be interpreted as having commercial, business or service use. I did not see any printers, office phones, computers, desks or office equipment being stored, and it was not vacant.
14. Nor does the internal configuration reflect the appellant's own summary of an office-style layout with ancillary kitchen and sanitary facilities. The kitchens in the building are generous and it is also not common for a bath or dressing room to be within office accommodation. What I observed also seemed to be a little excessive for occasional stays overnight for security purposes. It has not been demonstrated that the layout and use of the building is incidental to a primary office use. Indeed, it is capable of being used for residential purposes and this is the objective intention of the appellant, as evidenced by the submission of this proposal and application and subsequent applications.
15. Thus, as a matter of planning judgment I am satisfied that the change of use has already begun. As a result, I conclude that the development comprising the change of use of the first second and third floors from class E (office) to 2no self-contained residential flats (Class C3) cannot be granted under the prior approval process in this instance.
16. As a result, it is not necessary for me to further consider the other two reasons that the Council gave for refusing the prior approval. This is because even if I were to find the proposal to be acceptable in relation to these matters, it could not alter my overall conclusion that the proposal is not permitted development under Schedule 2, Part 3 Class G of the GPDO.

Conclusion

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

K Williams

INSPECTOR