



Appeal Decision

Site visit made on 2 February 2022

by S Edwards BA MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2022

Appeal Ref: APP/R5510/W/21/3285557
78 High Street, Northwood HA6 1BJ

- 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 M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Landim Ltd against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 32265/APP/2021/710, dated 18 February 2021, was refused by notice dated 28 April 2021.
 - The development proposed is conversion to 2 x 1 flats.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. Under Article 3(1) and Schedule 2, Part 3, Class M of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), planning permission is granted for the change of use of certain uses to dwellinghouses, subject to limitations and conditions.
3. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) Regulations 2020 came into force and provided that Classes A1, A2, A3, B1, D1 and D2 were to be replaced by a broader Class E (Commercial, business and service) Use Class. Any permitted development rights for the change of use of premises falling within Class E to a C3 dwellinghouse are now covered by a new Class MA.
4. The Regulations however include transitional provisions retaining the effect of previous permitted development rights. This means that if any application for prior approval under Class M has been made on or before 31 July 2021, as in the present case, it may proceed subject to the conditions imposed by the previous provisions, which notably permit the change of use of a building falling within Class A1 (shops) to C3 dwellinghouses.
5. The description of development as detailed on the application form has been amended in subsequent documents. I have adopted the description included on the appeal form, as this is consistent with the information shown on the proposed plans.

Main Issue

6. The main issue is whether the proposal would be permitted development under Schedule 2, Part 3, Class M of the Order.

Reasons

7. The appeal building is a two-storey semi-detached property sited within Northwood High Street Local Parade. It comprises a shop at ground floor level, whilst the first floor level is in residential use. There is an attached workshop towards the rear of the site.
8. The application form indicates that the internal floor area of the existing retail unit is 174 square metres. However, the existing and proposed plans clearly show that the first floor premises are already in use as a two-bedroom flat, and the cumulative floor space of the premises at ground floor level would not result in more than 150 square metres of floor space being converted to residential use. The proposal would therefore accord with the requirements of Paragraph M.1(c).
9. As set out in paragraph M.1(a), development is not permitted by Class M if the building was not used for one of the uses referred to in Class M(a) on 20 March 2013. There is no dispute that the commercial premises fronting the High Street were in use as a retail unit on that date. However, during the appeal process, concerns were raised by interested parties regarding the use of the workshop on 20 March 2013.
10. The presented evidence suggests that the workshop had not been used for ancillary purposes to the retail unit in recent years and was leased separately, but this is contested by the appellant. Whilst the date of the submitted Land Registry entry may not reflect the situation as of the 20 March 2013, no substantive evidence has been presented by the appellant to demonstrate that the workshop was used ancillary to the shop at that date.
11. Paragraph W.(3) of Schedule 2, Part 3 to the Order states that an application may be refused where insufficient information has been provided to enable the Authority to establish whether the proposed development complies with any conditions, limitations or restrictions specified as being applicable. For the reasons set out above, insufficient information has been presented to demonstrate that the proposal would accord with the requirements of paragraph M.1(a), and there is no certainty that it would constitute permitted development. Accordingly, there is no need to consider whether or not prior approval in respect of the accompanying conditions set out in paragraph M.2 would be required.
12. I have considered the suggestion that a split decision could be issued to enable the conversion of the shop premises to a one-bedroom flat. Having regard to the available information, I cannot however see how the existing planning unit could be functionally and physically severable.

Conclusion

13. For the reasons detailed above, I therefore conclude that the appeal should be dismissed.

S Edwards

INSPECTOR