



Officer Report

Application Number: HGY/2023/2923
Application Type: Prior approval Part 3 Class M: Retail or betting office or pay day loan shop to dwellinghouses
Address: 412 West Green Road, Tottenham, London, N15 3PU
Proposal: Application to determine if prior approval is required for a proposed change of use of the existing launderette (Sui Generis Use) to one two-bedroom flat (Class C3). Application made under the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class M.
Case Officer: Oskar Gregersen
Valid Date: 30/10/2023
Applicant: Mr Mohamed Nourzai
Agent: Mr Nada Ravi

RECOMMENDATION

Refuse

PLANNING HISTORY

The planning history of the site has been taken into account when coming to this decision.

RELEVANT PLANNING LEGISLATION

The application has been made under section 192 of the Town and Country Planning Act 1990 and relevant amendments. This not a planning application but instead the applicant seeks confirmation that the proposed development is lawful. As such, the impact of the proposed development of the neighbour's amenities or the character of the area cannot be taken into consideration for this submission.

ANALYSIS/ASSESSMENT OF THE APPLICATION

Class M: Commercial, business and service uses to dwellinghouses

A certificate of lawfulness for development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (Shops, or Financial and Professional Services) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order can be issued if the proposal meets all the criteria under The Town and Country Planning (Generally Permitted Development) (England) Order 2015 – Schedule 2, Part 3, Class M ‘retail or betting office or pay day loan shop to dwellinghouses’

The current proposal will be assessed against these requirements as follows:

M. Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (Shops, or Financial and Professional Services) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

Permitted Development –

M. *Development consisting of—*

(a)

a change of use of a building from—

(i)

a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order;

(ii)

a use as a betting office or pay day loan shop, or

(iii)

a mixed use combining use as a dwellinghouse with—

(aa)

a use as a betting office or pay day loan shop, or

(bb)

a use falling within either Class A1 (shops) or Class A2 (financial and professional services) of that Schedule (whether that use was granted permission under Class G of this Part or otherwise),

to a use falling within Class C3 (dwellinghouses) of that Schedule, and

(b)

building operations reasonably necessary to convert the building referred to in paragraph (a) to a use falling within Class C3 (dwellinghouses) of that Schedule.

Development not permitted

M.1 Development is not permitted by Class M if—

(a)

the building was not used for one of the uses referred to in Class M(a)—

(i)

on 20th March 2013, or

(ii)

in the case of a building which was in use before that date but was not in use on that date, when it was last in use;

Complies

(b)

permission to use the building for a use falling within Class A1 (shops) or Class A2 (financial and professional services) of the Schedule to the Use Classes Order has been granted only by this Part;

Complies

(c)

the cumulative floor space of the existing building changing use under Class M exceeds 150 square metres;

Complies

(d)

the development (together with any previous development under Class M) would result in more than 150 square metres of floor space in the building having changed use under Class M;

Complies

(e)

the development would result in the external dimensions of the building extending beyond the external dimensions of the existing building at any given point;

Complies

(f)

the development consists of demolition (other than partial demolition which is reasonably necessary to convert the building to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order); or

Complies

- (g) **the building is—**
- (i) **on article 2(3) land;**
- (ii) **in a site of special scientific interest;**
- (iii) **in a safety hazard area;**
- (iv) **in a military explosives storage area;**
- (v) **a listed building; or**
- (vi) **a scheduled monument**

Complies

Conditions

M.2—(1) Where the development proposed is development under Class M(a) together with development under Class M(b), development is permitted subject to the condition that before beginning the 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 as to—

- (a) **transport and highways impacts of the development,**

Haringey Transport were consulted and raised no objection as the site has high PTAL accessibility and the proposal is car free and storage for two bicycles is provided. Transport noted that dimensioned details will need to be submitted to illustrate width of access to cycle parking and to show that cycle parking will be covered and secure

- (b) **contamination risks in relation to the building,**

Paragraph (8) (c) of Part N states that “in relation to the contamination risks on the site—

- (i) determine whether, as a result of the proposed change of use, taking into account any proposed mitigation, the site will be contaminated land as described in Part 2A of the Environmental Protection Act 1990(a), and in doing so have regard to the Contaminated Land Statutory Guidance issued by Secretary of State for the Environment, Food and Rural Affairs in April 2012, and
- (ii) if they determine that the site will be contaminated land, refuse to give prior approval. There will be no external or landscaping works affecting contamination (excavation), and as such, the proposal is acceptable in this regard.

- (c) **flooding risks in relation to the building,**

In Accordance with Paragraph (4) of Part N that the local planning authority shall consult the Environment Agency where the development is—

- (a) in an area within Flood Zone 2 or Flood Zone 3; or
- (b) in an area within Flood Zone 1 which has critical drainage problems and which has been notified to the local planning authority by the Environment Agency for the purpose of paragraph (ze)(ii) in the Table in Schedule 5 to the 2010 Order. The application site falls within flood Zone 1 but not identified in an area as suffering from critical drainage problems, and therefore there are no flood risk issues associated with the change of use proposed.

- (d) **whether it is undesirable for the building to change to a use falling within Class C3 (dwellinghouses) of the Schedule to the Use Classes Order because of the impact of the change of use—**

- (i) **on adequate provision of services of the sort that may be provided by a building falling within Class A1 (shops) or, as the case may be, Class A2 (financial and professional services) of that Schedule, but only where there is a reasonable prospect of the building being used to provide such services, or**

(ii)

where the building is located in a key shopping area, on the sustainability of that shopping area, and

The application site is located in a parade identified in Haringey's Development Management DPD adopted in July 2017 as a designated Local Shopping Centre. There are a number of these local centres in Haringey with designated shopping frontage, which provide for the day-to-day needs of people living and working in their catchment areas. These centres are spread out across the Borough and vary significantly in size, with some smaller centres consisting of only a few shops compared to larger centres with upwards of 80 commercial units. Irrespective of their scale, the Council recognises the importance of maintaining and enhancing all local centres so that areas do not become deficient in provision of easily accessible shops and services.

This proposal would be detrimental to both the functioning and the appearance of the Local Shopping Centre. Contrary to the aims of the DPD policies to strengthen such centres, it would introduce a sense of decline, which would reduce the sustainability of the Local Shopping Centre in the longer term. The proposed conversion therefore fails to meet the test set out in Paragraph M.2. (1)(d)(i) & (ii) of the GPDO.

Evidence has been submitted to show that the site has laid vacant for a period of 9 months from 31/03/2023, with the site being advertised on the market for a period of 6 months, citing that the increase in utility costs has led to a lack of interest in the property being fully occupied. Notwithstanding this, Officers deem that a 6-month vacant period is not substantive to outweigh the demonstrable harm that the proposed change of use would cause to a Designated Local Shopping Centre.

(e)

the design or external appearance of the building, and the provisions of paragraph W (prior approval) of this Part apply in relation to that application.

The existing shop windows will be replaced by a brick wall with three upvc windows and a front door. The proposed treatment is not considered appropriate in the middle of a commercial town centre parade. It would break up the run of active commercial frontages at ground floor and would have an incongruous appearance out of keeping with the rest of the parade, to the detriment of local visual amenities and the streetscene as well as further eroding the vitality of the shopping centre.

Conclusion:

Considering all the above factors, proposal would be undesirable for the building to change to a use falling within Class C3 (dwellinghouse). This is because its loss would undermine the sustainability of this Local Shopping Centre as a whole. In addition, the period within which the site has been unable to be let does not demonstrably outweigh the harm caused to the Local Shopping Centre via the loss of a commercial unit to residential. The proposed treatment of the front elevation would introduce a non-active frontage, breaking up the commercial parade and introduce an incongruous feature within the parade. The proposal therefore fails to satisfy the conditions for a prior approval under Class M of the GPDO.

SUMMARY AND CONCLUSION

The proposed development does not constitute permitted development by virtue of Schedule 2, Part 3, Class M, of the Town and Country Planning (General Permitted Development) Order 2015 and is considered not to be lawful.

1. The proposal for a change of use from retail to residential use would adversely impact upon the operation and viability of the commercial unit and therefore the vitality and viability of the designated local shopping centre, including through reducing the local services in the centre and disrupting the continuous shopping frontages. The provided evidence does not negate the prospect of the building being used to provide local service in the future, and a change of use would demonstrably harm an established Local Shopping Centre. Having regard to The Town and Country Planning (General Permitted Development) (England) Order 2015, Part M.2(d)(i) & (ii), the change of use is not supported on the basis of adverse impact on the sustainability of the shopping area.

2. The proposed treatment of the front elevation would introduce a non-active frontage, breaking up the commercial parade and would have an incongruous appearance out of keeping with the rest of the parade, to

the detriment of local visual amenities and the streetscene as well as further eroding the vitality of the shopping centre.

Refusal Reasons:

The proposal for a change of use from retail to residential use would adversely impact upon the operation and viability of the commercial unit and therefore the vitality and viability of the designated local shopping centre, including through reducing the local services in the centre and disrupting the continuous shopping frontages. The provided evidence does not negate the prospect of the building being used to provide local service in the future, and a change of use would demonstrably harm an established Local Shopping Centre. Having regard to The Town and Country Planning (General Permitted Development) (England) Order 2015, Part M.2(d)(i) & (ii), the change of use is not supported on the basis of adverse impact on the sustainability of the shopping area.

The proposed treatment of the front elevation would introduce a non-active frontage, breaking up the commercial parade and would have an incongruous appearance out of keeping with the rest of the parade, to the detriment of local visual amenities and the streetscene as well as further eroding the vitality of the shopping centre.