
Appeal Decision

Site visit made on 4 October 2016

by H Baugh-Jones BA(Hons) DipLA MA CMLI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 17th October 2016

Appeal Ref: APP/Z5060/W/16/3154617

Quayside House, 13 Town Key Wharf, Abbey Road, Barking, Essex IG11 7BZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class O of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO).
 - The appeal is made by Mr Waseem Ahmed against the decision of the Council of the London Borough of Barking & Dagenham.
 - The application Ref 16/00407/PRIOFF, dated 15 March 2016, was refused by notice dated 6 May 2016.
 - The development proposed is Prior Approval of proposed change of use of the ground to third floor inclusive, from Use Class B1 (Offices) to Use Class C3 (Residential).
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Decision

1. The appeal is dismissed.

Procedural matters

2. The written evidence and my observations on site inform me that the scheme for which approval is sought, has been completed. I have considered the appeal on that basis. I note that the Council validated the application but this has no bearing on my consideration of the appeal.

Main Issue

3. The main issue in this appeal is whether the notification complies with the provisions of the GPDO for a change of use from office (Use Class B1(a)) to a residential unit (Use Class C3).

Reasons

Background

4. The appeal is made following the refusal of an application of notification for 'prior approval' for the change of use and conversion of an office building, forming part of the Town Quay Wharf development, into residential use. The scheme comprises a total of 24 dwellings ranging from studio flats to one and two bedroom flats.
 5. The appellant argues that the proposal does not give rise to any unacceptable effects relating to transport and highways; contamination risks; flooding risks; and noise. This is because the Council granted prior approval for a different but
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nonetheless wholly residential scheme in February 2015. I have no reason to disagree.

6. However, Class O of the GPDO contains a provision that an application should be made to the local planning authority for a determination as to whether prior approval is required *before beginning the development*. As I have already mentioned and as the parties point out, the development has been completed and I was able to verify this at my site visit.
7. I accept that the *principle* of the appeal scheme (i.e. a change of use from B1(a) to C3) is the same for which prior approval was granted previously. However, the current proposal is materially different to the previous one, involving an increase in the number dwellings. It cannot be, therefore, that the grant of prior approval for one scheme can be transferred to another simply because the principle of the change of use is the same. Therefore, given the circumstances, in my view, prior approval cannot be granted under the provisions of the GPDO.
8. The appellant has also drawn my attention to a scheme granted on appeal (ref: APP/R5510/A/14/2227533). In that case, the Inspector was required to determine whether, in addition to the transport and highways effects of the scheme, that the formal prior approval procedure had been complied with. In particular, I note that the scheme involved a change of use of three separate buildings and that the Inspector concluded that the Council's contention in respect of Class J of the (1995) GPDO had no merit in practice. This is an entirely different situation to that before me; notably that the development has been completed. I cannot, therefore, draw any meaningful comparison between that appeal scheme and the proposal before me.

Conclusion

9. For the above reasons and having had regard to all other matters raised, the appeal does not succeed.

Hayden Baugh-Jones

Inspector