

Appeal Decision

Site visit made on 24 October 2016

by Gareth W Thomas BSc(Hons), MSc(Dist), PgDip, MRTPI

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

Decision date: 07 November 2016

Appeal Ref: APP/N4205/W/16/3156770
63 Bradshawgate, Bolton BL1 1QD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Schedule 2, Part 3, Paragraph O.1 of the Town and Country Planning (General Permitted Development)(England) Order 2015 as amended.
 - The appeal is made by Mr Paul Rothwell of Empire Property Concepts Ltd against the decision of Bolton Metropolitan Borough Council.
 - The application Ref 96720/16, dated 3 June 2016, was refused by notice dated 29 July 2016.
 - The development proposed is for the change of use from B1a) Offices to C3 dwellinghouses.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (GPDO) for the change of use from B1a) Offices to C3 dwellinghouses at 63 Bradshawgate, Bolton BL1 1QD in accordance with the details submitted pursuant to Schedule 2, Part 3 Paragraph O.2.1 and to the conditions in the Schedule below.

Application for costs

2. An application for costs was made by Mr Paul Rothwell of Empire Property Concepts Ltd against Bolton Metropolitan Council. This application is the subject of a separate Decision.

Main Issues

3. The main issues in this appeal are firstly, the effects of the development on transport and highways and, secondly, the effects of noise from commercial premises on the intended occupiers of the development.

Reasons

Background

4. The appellant makes the point that an earlier application was submitted to the Council but subsequently withdrawn as an amendment (The Town & Country Planning (General Permitted Development) (England) (Amendment) Order 2016) to the 2015 GPDO came into effect on 6 April 2016. This amendment affects the rights arising from Class O to which this appeal relates. Of most
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relevance to this appeal is the requirement that the developer must apply to the local planning authority for a determination as to whether prior approval of the authority is required regarding “impacts of noise from commercial premises on the intended occupiers of the development”.

5. In addition to noise impacts from commercial premises on the intended occupiers of the development, the provisions of the GPDO require the local planning authority to assess the proposed development on the basis of its transport and highways effects; whether or not there are any contamination risks on the site; and flooding risks. The Council only expressed concerns with the transport and highway effects of the scheme and noise impacts. I would agree with that assessment and my determination of the appeal has been made on this basis.
6. The appeal site is located within Bolton’s town centre within an area of shops, offices, some student residential accommodation and various night time commercial and leisure premises. The appeal premises occupy a prominent corner position and comprise a six storey former office block with a pub-restaurant at ground floor. There is a separate entrance into the building that would be used by future occupiers and to the rear lies an 18-bay car park, also intended for residents. The site lies within close proximity to a range of public transport facilities including both rail and bus interchanges. The development would provide 75 residential units, the vast majority of which would be studio apartments.

Transport and Highways

7. At my site visit, I saw the proposed car park that is already laid out for 18 cars. Parking is restricted on the streets immediately around the appeal property. The site is located in a highly sustainable town centre location within 500m of extensive rail and bus network together with local services and places of employment and leisure. It is likely that the accommodation would be attractive to those who either do not have access to a car or who would be able to make an informed decision as to the suitability of such accommodation to meet their individual needs.
8. The National Planning Policy Framework (the ‘Framework’) seeks to maximise public transport, walking and cycling, and advises that parking standards should take account of the accessibility of development and the levels of car ownership. The Written Ministerial Statement (WMS) dated 25 March 2015 highlights that local parking standards should only be imposed where there is clear and compelling justification. It is noted that the Council’s Highway Engineers did not raise any concerns in relation to the level of parking provision.
9. In the absence of evidence of a local parking issue, I do not consider that the proposal would result in a material shortage in parking provision in this location. Nor has it been demonstrated that even if there was a material deficiency, it would be bound to have a harmful effect on highway safety.

Impact of commercial noise on future occupiers

10. The evidence regarding the surrounding land uses submitted by the appellant in regard to potential noise impacts from adjacent commercial development was in line with my observations on site regarding the mixture of uses in the

immediate area. Furthermore, the acoustic evidence would mean that it would be possible to provide acceptable living standards for future occupiers. In these regards, I am persuaded that any adverse noise impacts could be controlled through a condition as suggested by the Council, and that the proposal would thus meet criterion (d) of the prior approval conditions.

Conditions

11. The Council has suggested four conditions. The ability to impose conditions is confined to conditions reasonably related to the subject matter of the prior approval. The Council's time limit condition does not accord with Class O.2(2) of the GPDO. The GPDO condition is standard and requires development to be completed within a period of 3 years. A condition is necessary in the interests of efficient highways and transportation requiring on-site cycle facilities to be provided. A condition is also necessary to ensure that the acoustic insulation and mitigation measures are carried out to protect the living conditions of future occupiers. Similarly a condition requiring provision of refuse and waste storage facilities is necessary to safeguard living conditions.

Conclusion

12. For the above reasons and having regard to all other matters raised, this appeal should be allowed subject to the conditions below.

Gareth W Thomas

INSPECTOR

SCHEDULE OF CONDITIONS

1. Before development commences details of on-site cycle parking to be provided within the site shall be submitted to and approved in writing by the Local Planning Authority. The approved cycle parking shall be implemented in full before the development hereby approved is first occupied or brought into use and retained thereafter.
2. Acoustic insulation and mitigation measures entirely in accordance with the recommendations of Section 5 of the submitted Noise Impact Assessment by Environmental Noise Solutions Limited (dated 19th May 2016) shall be implemented in full prior to the first occupation of any dwelling unit and retained in full thereafter.
3. Before the development is first brought into use a detailed scheme shall be submitted to and approved by the local planning authority showing the design, location and size of a facility to store refuse and waste materials. The approved scheme shall be implemented in full prior to first occupation of any dwelling unit on site and retained thereafter for such purposes.