
Appeal Decision

Site visit made on 9 November 2016

by Thomas Hatfield BA (Hons) MA MRTPI

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

Decision date: 2nd December 2016

Appeal Ref: APP/M5450/W/16/3155604

26,28 & 30 Dalston Gardens, Stanmore, HA7 1BU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a development order.
 - The appeal is made by Mr Aniket Chhipa against the decision of the Council of the London Borough of Harrow.
 - The application Ref P/0831/16, dated 22 February 2016, was refused by notice dated 11 May 2016.
 - The development proposed is a change of use of office premises located within the ground and first floors of Nos 26 and 28 Dalston Gardens into residential use.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. The Council originally refused to grant prior approval for two reasons. One of these reasons related to detrimental noise impacts that would harm the living conditions of future occupiers of the development. Subsequently however, the appellant submitted a noise assessment with the appeal documentation. Having reviewed the findings and recommendations of this document the Council withdrew their objection to the proposal on noise grounds, subject to the requested conditions being applied.

Main Issue

3. The main issue is whether the proposal satisfies the requirements of the 2015 General Permitted Development Order (GPDO), as amended, with regard to being permitted development for a change use from office (Use Class B1(a)) to a residential unit (Use Class C3), with particular regard to whether the appeal building was in use, or last used, as an office on or before 29th May 2013.

Reasons

4. The appeal site comprises a series of rooms at the front of Nos 26 and 28 Dalston Gardens. These rooms form part of a much larger building that is mostly used for industrial purposes. The proposal would convert the rooms into 4 apartments, and the remainder of the building would be retained in its current use.
 5. The application for prior approval was refused by the Council as it considered that there was insufficient information to establish whether the site was in use,
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or last used, as an office on or before 29th May 2013, as required by 2015 GPDO. As such, the Council does not consider that the proposal would qualify as permitted development.

6. Subsequently, the appellant provided further information to support the contention that the appeal site complied with the relevant GPDO requirements. This included the property particulars that were available when the current owner purchased the site in October 2013. These describe the property as including ground and first floor offices in both Nos 26 and 28. The appellant states that this document was prepared in May 2012 based on a site visit of the property at that time.
7. However, the property particulars are not dated and no further evidence is provided to corroborate the dates asserted by the appellant. In particular, no correspondence or other information has been provided to substantiate that the property particulars were prepared in May 2012. Similarly, no corroborating evidence has been provided that there was a tenant in the ground floor offices in October 2013. Instead, these points are simply asserted. Separately, whilst the first floors of Nos 26-28 may currently be laid out as office space, this does not in itself testify to the situation on or before 29th May 2013. For these reasons, there is not sufficient evidence for me to determine whether the building was in use, or last used, as an office at the time required by the 2015 GPDO.
8. In any event, the 2015 GPDO requires that the building was in use, or last used as an office on or before 29th May 2013. In this case, however, the appeal site forms part of a much larger building, most of which is currently used for industrial purposes. No case has been made that the wider building was in use, or last used, as an office on or before 29th May 2013. Given the size and layout of the wider building, this seems unlikely.
9. Based on the information before me, I conclude that there is insufficient evidence that the building was in use, or last used, for a use falling within Class B1(a) on or before 29th May 2013. The proposed change of use would therefore not meet the requirements of the 2015 GPDO for it to be considered as permitted development under the provisions of Class O of Schedule 2 Part 3 of the Order.

Conclusion

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

Thomas Hatfield

INSPECTOR