
Appeal Decision

Site visit made on 7 February 2017

by Jonathon Parsons MSc BSc(Hons) DipTP Cert(Urb) MRTPI

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

Decision date: 14 March 2017

Appeal Ref: APP/N5660/W/16/3161023

Building to the rear of 122 Greyhound Lane, London SW16 5RN

- 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, Class P of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Mr Razin Omar (Holmes Estates) against the decision of the Council of the London Borough of Lambeth.
 - The application Ref16/03301/P3P, dated 31 May 2016, was refused by notice dated 26 July 2016.
 - The development proposed is the change of use from Class B8 (storage or distribution centre) to Class C3.
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) for the change of use from Class B8 (storage or distribution centre) to Class C3 (dwellinghouses) of building to the rear of 122 Greyhound Lane, London SW16 5RN in accordance with the details submitted.

Main Issue

2. The main issue is whether the proposed change of use is permitted development.

Reasons

3. The appeal site comprises a building located at the rear of 122 Greyhound Lane which is accessed off a lane from Westwell Road Approach.
 4. Sub-paragraph P.1(a) states development is not permitted by Class P if "*the building was not used solely for a storage or distribution centre use on 19th March 2014 or 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:*" Additionally, development is not permitted by this Class under sub-paragraph P.1(b) if "*the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins*".
 5. It is clear that from the above that a storage or distribution use does not have to be in use before the change of use takes place provided that the building was used for a storage or distribution use in the past and prior to 19 March 2014. Furthermore, the building has to have been used solely for a storage or
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distribution centre use for a period of at least 4 years at some point in time and that there has been no subsequent use. Vacancy does not mean a planning use has ceased. In summary, to benefit from the permitted development right under this class, a storage or distribution use can have ended before 19 March 2014 provided that it subsisted for at least 4 years.

6. Sub-paragraph P.2(a) requires the applicant to submit a statement accompanying the prior approval application "*setting out the evidence the developer relies upon to demonstrate that the building was used solely for a storage or distribution centre use on the date referred to in paragraph P.1(a) and for the period referred to in paragraph P.1(b).*" To comply with the sub-paragraph P.2(a), the applicant submitted a letter from the former occupier of the premises and a copy of a licence agreement between the applicant and the former occupier of the building. The occupier indicated that the building was used for storage in connection with a furniture removal business between 30 January 2008 and 29 January 2013 and the agreement confirms the Appellant's ownership permission to the occupier to use the building for this period. The Appellant also indicates that the building has remained vacant since this last date.
7. The Council has not detailed why it considers the Appellant's evidence to be insufficient. It does state the site's planning history shows that the building was last used for car/motorcycle repairs but this is not evident in any of its submitted documentation. Indeed, the last entry on the planning history contained within the officer's report shows a refusal of a change of use from a warehouse building. Taking into account both the letter and the agreement, the balance of evidence before me would indicate the building was solely used as a storage and distribution centre for at least 4 years prior to 19 March 2014. Consequently the criteria of sub-paragraphs P.1 (a) (b) are satisfied for all the reasons indicated. In terms of the remaining express exclusions under sub-paragraphs P.1 (c-j), these are not at dispute and having considered both the Appellant's and Council's statements, I am satisfied that none of these exclusions would apply.
8. Turning to the consideration of impacts under sub-paragraph P.2 (b), there has been a comment from a Transport and Highways consultee raising no objections but requesting clarification on cycle provision and bin storage. In respect of cycle provision, the site has excellent accessibility to public transport under Public Transport Accessibility Level rating. Thus the absence of cycle provision would not be harmful by reason of alternatives to the use of the private motorcar. The appeal site is located some distance from the public highway. Nevertheless even if bins had to be wheeled down to Westwell Road on collection day, I am not persuaded of any transport or highway impacts given the road mainly serves residential properties and is not a major thoroughfare for traffic.
9. In terms of the remaining impacts identified under sub-paragraph P.2 (b), I am satisfied that they are either not relevant or of negligible significance by reason of the nature of the proposal. Such a view is supported by the Council's comments on this in their officer's report.
10. My attention has been drawn to a prior approval appeal in Horsham. Whilst my views on interpretation of the parts of Class P are similar, this appeal illustrates

that proposals do differ due to different circumstances and the current appeal has been considered on its particular planning merits.

11. In conclusion, the proposal would benefit from this permitted development under Class P because it would not be excluded under the terms of paragraph P.1. Having considered the impacts of the development, approval can be given to this permitted development right for the reasons indicated. There have been no other requirements, conditions and limitations brought to my attention to alter this conclusion.

Conclusion

12. For the above reasons and having regard to all other matters raised, I conclude that the appeal should be allowed and that approval should be given.

Jonathon Parsons

INSPECTOR