
Appeal Decisions

Site visit made on 28 February 2017

by Amanda Blicq BSc (Hons) MA CMLI

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

Decision date: 16 March 2017

Appeal Ref: APP/W5780/W/16/3161704 (Appeal A)
R/O 122-124 High Street, Barkingside, Ilford, Essex IG6 2DU

- 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.
 - The appeal is made by Wildwood Group Limited against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 3142/16, dated 29 June 2016, was refused by notice dated 24 August 2016.
 - The development proposed is change of use of second floor offices only to create 3 studio flats and 1 one bedroom flat.
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Appeal Ref: APP/W5780/W/16/3161698 (Appeal B)
R/O 122-124 High Street, Barkingside, Ilford, Essex IG6 2DU

- 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.
 - The appeal is made by Wildwood Group Limited against the decision of the Council of the London Borough of Redbridge.
 - The application Ref 3141/16, dated 29 June 2016, was refused by notice dated 24 August 2016.
 - The development proposed is change of use of first and second floor offices to create 10 studio flats and 4 one bedroom flats.
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Decision

1. The appeals are dismissed.

Procedural Matters

2. As set out above, there are two appeals on this site. One relates to the conversion of the second floor only into residential accommodation (Appeal A) and the second relates to the conversion of the first and second floors to residential accommodation (Appeal B). I have considered each proposal on its individual merits. However, as the two applications are complementary, I have dealt with them together to avoid duplication, except where otherwise indicated.

Main Issues

3. The main issues are:
 - whether the development satisfies the requirements of the Town and Country Planning (General Permitted Development) (England) (Amendment)
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Order 2016 (No 332), (GDPO), with regard to being permitted development for a change of use from office use (Use Class B1(a)) to a residential use (Use Class C3), having had particular regard to whether the appeal building can be considered to have had a B1(a) use; and

- the effect of the development on the safe and efficient operation of the highway.

Reasons

Prior use

4. The appeal site is a three-storey office building located to the rear of 122- 126 High Street. It is currently undergoing refurbishment works. In order to meet the requirements for permitted development as outlined in the GDPO, the building must have been in a use falling within Class B1(a) on the trigger date of 29 May 2013.
5. The appellant acknowledges that the site's planning history indicates that the building was in use as a hostel on the trigger date¹. Furthermore, I see no reason to disagree with appellant's Counsel² that the lawful use of the building on that date was Class B1(a). However, I disagree with Counsel that the unlawful hostel use should be disregarded for the purposes of this appeal.
6. Recent appeal decisions³ have been brought to my attention. In these appeals, Inspectors have concluded that use in this context means the actual use on the trigger date. Whilst I appreciate the appellant's argument that the permitted development right was introduced to allow the conversion of empty or under-used offices to dwellings, it nonetheless remains that in this instance, the lawful use was office use whereas the actual use appears to have been as a hostel. On the basis of the evidence before me I see no reason to disagree with the interpretation of the GDPO set out in the aforementioned appeal decisions. Consequently, I conclude that the building was not in office use on the trigger date, as required by the GDPO.
7. The appellant argues that it would be obvious to me that the internal refurbishment works currently underway are to enable the lawful office use to continue. The survey drawing⁴ shows a fairly complex layout of lobbies and rooms of varying sizes on the building's first floor. I noted on my visit that the current layout of the first floor bears a striking resemblance to the proposed residential layout of Appeal B⁵. There is one central corridor from which rooms of a similar size are accessed, and having reviewed the survey plan and the proposed layout it appears that nearly all the original partitions have been removed and the layout reconfigured. Furthermore, these rooms have a smaller room within them which is positioned in a corner with a paper label marked 'kitchen' on the door. These smaller rooms have no outside windows and are in the process of being tiled to near floor level.
8. Although the second floor has a reduced floor area compared to the first floor, a comparison between the survey and the current layout indicates that there

¹ Grounds of appeal, Paragraph 10

² John Pugh-Smith, 23 June 2016

³ APP/L5810/W/15/3134690 & APP/W0530/W/16/3143989

⁴ Dwg. 1624/P03

⁵ Dwg. 1624/P01

has been substantial reconfiguration of the original partitions and the construction of smaller tiled rooms.

9. Whilst it is entirely reasonable for small offices to have individual kitchens, I did not notice any other rooms or indeed available space on either floor for the provision of toilet facilities. As the smaller tiled rooms on both floors are generally in the positions shown on the layout plans for the bathrooms of the development, I conclude that it is unlikely that the refurbishment works are preparing the building for office use. If the smaller rooms are to be used as kitchens, it appears that the building would lack toilets on the first and second floors altogether.
10. Consequently, the evidence before me suggests that works in conjunction with the change of use had commenced prior to the determination of the planning application. Paragraph W11 (GDPO) represents a restriction on the commencement of development. Development that begins prior to a Council's decision, or before the determination of a relevant appeal is no longer capable of falling within the permitted development right.
11. The proposed change of use would not therefore meet the requirements of the GDPO for it to be considered as permitted development under the provisions of Class O of Schedule 2, Part 3 of the Order in respect of change from Class B1(a) use as the building was not in office use on the trigger date. As such, it is development for which an application for planning permission is required.

Highway safety

12. As I have found that the development falls outside the permitted development rights, it is not necessary for me to make a determination on the prior approval matters which in this case relates to highway safety associated with an effect on local parking demand.

Other matters

13. Interested parties have raised objections to the development in respect of overlooking, privacy, waste disposal and noise, as well as parking issues along the rear access track. However, as I have found harm in respect of the prior approval procedure, it is not necessary for me to consider these other issues further.

Conclusion

14. I have concluded that neither appeal meets the criteria set out in the GDPO. As such, neither can be considered to be permitted development for assessment under the prior approval process. For the reasons given above and taking all matters into account, I conclude that both appeals should be dismissed.

Amanda Blicq

INSPECTOR