
Appeal Decision

Site visit made on 27 March 2017

by Philip Lewis BA (Hons) MA MRTPI

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

Decision date: 21 April 2017

Appeal Ref: APP/B5480/W/16/3165752

113 Upminster Road South, Rainham, Essex RM13 9AA

- 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 Mr Idris Hussain against the decision of the Council of the London Borough of Havering.
 - The application Ref J0007.16, dated 5 May 2016, was refused by notice dated 28 June 2016.
 - The development proposed is conversion of rear offices into two residential studio units.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Class O of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the conversion of rear offices into two residential studio units at 113 Upminster Road South, Rainham, Essex RM13 9AA in accordance with the details submitted pursuant to Schedule 2, Part 3, Class O of the GPDO, through application Ref J0007.16, dated 5 May 2016.

Procedural matters

2. The appeal was made under the provisions of Class O of Schedule 2, Part 3 of the GPDO. Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether prior approval is required solely in respect of the transport and highway impacts of the proposal, contamination risks, flooding risks on site and impacts of noise from commercial premises on the intended occupiers of the development.
3. The Council, in its decision notice states that prior approval is refused but does not set out a reason for refusal. The Council's statement confirms that prior approval was refused solely due to highway impacts relating to parking congestion. As the application form is undated, I have taken the date of the application from the Council's decision notice.

Main Issue

4. The main issue for the appeal therefore is the effect of the development on highway safety.
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Reasons

5. The appeal proposal relates to a ground floor office situated within a parade of commercial units with some flats above. The proposal would involve the reconfiguration of the office premises to provide two residential 'studio units'. No off-street parking provision is proposed for the studio units.
6. I saw at my site visit that Upminster Road South to the front of the appeal site is subject to a 'no parking' restriction between 0830 and 1830 Monday to Saturday. I observed that the wider area is subject to various parking controls, including in nearby streets such as Cowper Road. To the east of the site there is a pedestrian crossing with zigzag lines and parking restrictions associated with Rainham Village Primary School and to the west is Rainham Village centre, where there are also various parking restrictions and limited short term pay and display parking on-street.
7. The Highways Authority considers that the appeal site has a PTAL rating of 2 and that whilst the parking standard using the density matrix in Policy DC2 of the London Borough of Havering Core Strategy and Development Control Policies Development Plan Document 2008 (DPD) is for 1.5-2 spaces per unit, 1 parking space per unit would be acceptable for the proposed units. I note that the appeal site is within walking distance of bus stops, shops, services and facilities and that it is stated that Rainham Station is situated about 600 metres away from the appeal site. Whilst the appeal site may be towards the end of some bus routes, I nevertheless find it to be reasonably well served by public transport.
8. Policy DC33 of the DPD sets out that car parking provision within new developments should not exceed set maxima which were based on standards provided by the London Plan. In 2016 Minor Alterations to the London Plan (MALP) were adopted which include revised Parking Standards. For 1-2 bed units, it is stated that a maximum of less than 1 space should be provided per unit. Although I note that there is no explicit statement regarding zero provision, the lack of parking provision proposed does not exceed the maximum standards as set in the MALP.
9. The Council has referred me to paragraph 6.42 j of the MALP which amongst other things states that in outer London a more flexible approach for applications may also be acceptable in some limited parts of areas within PTAL 2. However, it also states that account should be taken of the criteria as set out in paragraph 39 of the National Planning Policy Framework (the Framework) and in that context I do not consider it has been demonstrated that the levels and orientation of public transport at the appeal site are such that the proposed development would be particularly dependent upon car travel.
10. The main parties agree however that the office use has no off street parking provision and therefore I have particular regard to the fact that the existing use as an office would have an impact upon parking demand and congestion in the area, taking place at times when on-street parking restrictions to the front of the appeal site apply. The Council is particularly concerned with the impact of the proposed scheme during the evening and weekends, though there is no evidence before me that the office use could not take place on Saturdays at times when the on-street parking restrictions apply.

11. I find that the proposed development is unlikely to have a significantly greater effect upon parking in the area than the permitted office use during office hours. I have had regard to the statements of the Council concerning the demand for on-street parking and levels of congestion in the area and by an interested person regarding the close proximity of a school to the appeal site and that that pavement parking takes place at present. However, in respect of the times outside of office hours at evenings and weekends when there is unrestricted on street parking to the front of the property, I do not consider it has been demonstrated that the appeal proposal would give rise to significant harm to highway safety through any increase in on-street parking. On the balance of the evidence before me, having had regard to the existing office use, the parking situation in the area and the parking requirement as set out in the MALP, I do not find the proposed development to be unacceptable.
12. To conclude, I do not find that the appeal proposal would have an unacceptable effect upon highway safety. Whilst the appeal proposal would not meet the parking standards as required by DPD Policy DC33, I find it does not conflict with those recently adopted in the MALP. DPD Policy DC32 includes amongst other things that new development which has an adverse impact on the functioning of the road hierarchy will not be allowed. I do not find that the appeal proposal conflicts with this policy. I consider therefore that the appeal proposal does not conflict with the development plan as a whole. In addition, I do not find that the proposal conflicts with the transport policies of the Framework.

Other matters

13. W(13) of Schedule 2, Part 3 of the GPDO sets out that prior approval may be granted subject to conditions reasonably related to the subject matter of the prior approval, which in this case is the transport and highways impacts of the development. The Council has requested that a condition be applied relating to a noise assessment, with particular reference to noise arising from the Elm Park Primary Substation. However, this matter is not reasonably related to the subject matter of the prior approval and I have not attached such a condition.
14. Concern has been expressed regarding the storage of bins and the dumping of rubbish and that the appeal proposal could give rise to safeguarding issues for the nearby school. These matters are however outside of the scope of matters to be considered under Class O of the GPDO.

Conclusion

15. I conclude that the appeal should be allowed and approval granted. In granting approval, the appellant should note that the GPDO requires at paragraph O.2(2) that Development under Class O is permitted subject to the condition that it must be completed within a period of 3 years starting with the prior approval date.

Philip Lewis

INSPECTOR