
Appeal Decision

Site visit made on 27 June 2017

by M Seaton DipTP MRTPI

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

Decision date: 20 July 2017

Appeal Ref: APP/N5660/W/17/3172819
27 Paxton Place, London, SE27 9SS

- 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 O of the Town and Country Planning (General Permitted Development) Order 2015.
 - The appeal is made by Mr Robert Wheeler of RNR Developments Ltd against the decision of the London Borough of Lambeth.
 - The application Ref 16/06916/P3O, dated 12 December 2016, was refused by notice dated 6 February 2017.
 - The development proposed is the change of use from office (B1) to residential (C3).
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) for the change of use from office (B1) to residential (C3) at 27 Paxton Place, London SE27 9SS, in accordance with the details submitted pursuant to Schedule 2, Part 3 Class O of the GPDO, and subject to the following conditions:
 - 1) Notwithstanding the details shown on the submitted plans, this approval does not grant consent for the provision of a parking space in connection with the development, as has been shown on Drawing No. 202, dated 1 November 2016.
 - 2) Prior to the occupation of the development hereby approved, details of the provision to be made for cycle parking and refuse and recycling storage shall be submitted to and approved in writing by the Local Planning Authority. The cycle parking and refuse and recycling storage shall thereafter be implemented in full in accordance with the approved details before the use commences and shall thereafter be retained solely for the designated uses.

Main Issue

2. The main issue is whether the proposed development would accord with the provisions of Class O of Schedule 2, Part 3 of the GPDO.

Reasons

3. The appeal site is occupied by a two-storey building, and adjoins the rear of No. 169 Hamilton Road, having originally been constructed as an extension to that property, which is also commercially occupied albeit that it is indicated that it benefits from prior approval for conversion to residential use. The appeal
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premises are comprised of offices at both lower ground and first floor levels, with access taken from Paxton Place. The area is a clear mix of commercial and residential properties and uses.

4. It is proposed to change the use of No. 27 Paxton Place through the conversion of the existing office building to provide a single residential unit. The application for these works has been submitted as a notification under Schedule 2, Part 3, Class O of the GPDO, which states that *development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule*, is permitted development. However, this is subject to certain provisions where development would not be permitted, which are as set out at paragraph O.1 of the GPDO.
5. In assessing the proposal against paragraph O.1, the Council has not submitted that it would fall foul of any of the provisions as set out within the paragraph, and on the basis of the submitted information, I have no reason to dispute this conclusion.
6. I am mindful that 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 the prior approval of the authority would be required. In this respect, paragraph O.2 sets out that an assessment of prior approval must be made regarding the (a) transport and highways impacts of the development; (b) contamination risks on the site; (c) flooding risks on the site; and (d) impacts of noise from commercial premises on the intended occupiers of the development. The GPDO also advises that the provisions of paragraph W (Procedure for applications for prior approval under Part 3) apply in relation to such an application.
7. The appellant has submitted that the premises does not possess any asbestos or other harmful materials which would be affected by the works, and in the absence of any evidence or an objection from the Council's Environmental Health team, the Council has accepted this. I also note that the appeal site has not been identified as being within an area at risk of flooding and that the Council has raised no objections on these matters. In respect of paragraph O.2(d), whilst no detailed or substantive submissions have been made by either party, I am satisfied that the occupation of the appeal site in the manner proposed would not be prejudiced by noise as a consequence of the nature of other premises within the immediate vicinity or by the wider area as a whole. On this basis, I am satisfied that the principal matter of dispute relates to paragraph O.2(a) of the GPDO.
8. The appellant has indicated that the proposed residential unit would benefit from a single parking space located adjacent to the side boundary of No. 169 Hamilton Road, on the Paxton Place frontage. I observed on the site visit that the indicated area appears to be beyond the extent of the carriageway, the limits of which would seem to be denoted by double yellow lines on the road surface, and that the land has clearly been used for private parking in connection with the adjacent properties in the past. I note the Council has expressed contrary views regarding whether the land is part of the public highway or not, but has not adduced any decisive evidence to support the

contention that it is land beyond the appellant's control. Nevertheless, the Council has highlighted that the use of the space for parking would compromise the ability of future occupiers to access the proposed residential unit and facilitate the collection and storage of refuse and recycling receptacles, and would have a material impact on highway safety for pedestrians accessing Paxton Place.

9. Whilst I have had regard to the Council's concerns over pedestrian safety, on the basis of the evidence provided it would appear that this is not land over which the public possess a right of way in any event, and therefore the use or otherwise of the land for parking would ultimately have no significance in respect of the impact on pedestrian safety. However, I do share the Council's concern over the potential impacts on accessibility to the appeal property, and matters related to refuse and recycling if the parking space were to be relied upon.
10. As a consequence of the Council's concerns, the appellant has produced and submitted a parking survey and transport assessment which has concluded that there is sufficient capacity on surrounding streets to accommodate the demand for parking for an additional car, and that this would not lead to an adverse impact on highway safety. The Council has confirmed that on the basis of the technical conclusions, if the parking space were omitted and the parking was indicated as being supplied on street then no objections to the proposals would be raised. I note that the appellant would be agreeable to this approach, and I consider that, as suggested by the appellant, that this is a matter which could be satisfactorily addressed through the imposition of a suitably worded condition.
11. As a consequence, I am satisfied that the proposed development would accord with the provisions of Class O of Schedule 2, Part 3 of the GPDO. In respect of the imposition of conditions, I note that standard conditions are set out in paragraph W.(12) of the GPDO, whilst paragraph W.(13) provides for additional conditions to be attached that are reasonably related to the subject matter of the prior approval. In this instance, conditions have been suggested as a means of securing the use of the indicated parking space solely for refuse and cycle parking, with the details of the provision of such to be submitted and agreed. I am satisfied that these conditions would be necessary and would be within the scope of paragraph W.(13) as they address matters related to the transport and highways impacts of the development.

Conclusion

12. For the reasons given above, and subject to the conditions as listed, the appeal should be allowed.

M Seaton

INSPECTOR