
Appeal Decision

Site visit made on 9 November 2017

by Elizabeth Pleasant DipTP MRTPI

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

Decision date: 29 November 2017

Appeal Ref: APP/Y5420/W/17/3180595
7 Willoughby Road, London N8 0HR

- 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 Maier Kesselman against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2017/1294, dated 23 March 2017, was refused by a notice dated 26 May 2017.
 - The development is described as 'prior approval change of use from B1 (a) use to C3 use'.
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Decision

1. The appeal is allowed and approval is granted under the provisions of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development Order) (England) (Amendment) Order 2015 (GPDO) for prior approval change of use from B1 (a) use to C3 use at 7 Willoughby Road, London N8 0HR, in accordance with the details submitted pursuant to Schedule 2, Part 3, Class O of the GPDO and subject to the following condition:
 - 1) Before the first occupation of the dwellings a cycle storage area shall be provided strictly in accordance with details that shall first have been submitted to and approved in writing by the local planning authority. Those details shall include dimensions, method of security and access. The cycle storage area shall thereafter be so maintained.

Main Issue

2. The main issue in this case is whether or not the proposal is permitted development under the provisions of Schedule 2, Part 3, Class O.1 of the GPDO, having particular regard to whether the appeal building was used for a use falling within Class B1 (a) (offices) of the Schedule to the Use Classes Order on 29 May 2013.

Reasons

3. The appeal building is a substantial end of terrace two-storey property which occupies a prominent corner location overlooking Ducketts Common. It is situated in a predominantly residential area, outside of the commercial core of Wood Green and close to Turnpike Tube Station and local bus routes.
4. There is no dispute between the main parties that the appeal building was occupied by Ersan & Co Solicitors' Ltd on the 29 May 2013. However, the

Council consider that this company provided services principally to visiting members of the public, and accordingly the building was not in a Class B1 (a) office use, but instead used for financial and professional services (Class A2). The Council does not therefore consider the proposed change of use to be permitted development.

5. A Certificate of Lawfulness, Ref HYG/2009/0367 was granted for the use of the appeal building as Class B1 in April 2009, and it is not disputed that Ersan & Co Solicitors' Ltd operated from the premises between 2009 and 2014. I have not been provided with any evidence from the Council that would suggest that this company was operating from the building unlawfully, and there does not appear to have been any subsequent planning permissions for a change of use since the 2009 certificate was granted. Moreover, when the Council considered a previous application for prior approval on this site, Ref HGY/2013/2545¹ in 2013, they considered that the building was in B1 (a) office use.
6. I recognise that this company has now moved to a high street location, however the appellant's appeal documents include a letter² which confirms that during Ersan & Co Solicitors' occupation of the appeal building, they did not operate an open door policy, and that their offices were used to practice personal injury, conveyancing, immigration and family law and by an appointment system only. Whilst during this time the building may well have advertised the company details, it is not unusual for a business to display its company logo. This fact alone would not lead me to conclude that the business relied principally on providing services to visiting members of the public.
7. It is clear that the lawful use of the appeal building is for Class B1, and I have not been provided with any substantive evidence that would lead me to conclude that Ersan & Co Solicitors' were operating from the premises for any use other than as an office use under Class B1 (a) on 29 May 2013.
8. I therefore conclude that the proposed change of use would be permitted development under the provisions of Schedule 2, Part 3, Class O.1 of the GPDO.

Other Matters

9. Having regard to the evidence before me, it is clear that there is no ground contamination, flooding risk or impacts of noise associated with the site. However, from the Council Officer's Report and Statement of Case, it is evident that this area of Wood Green experiences extreme parking pressure due to many properties being converted to flats. The site falls within the Wood Green Outer Controlled Parking Zone and therefore future residents would be free to apply for parking permits which would exacerbate existing parking stress in the area and have a harmful impact on highway safety.
10. The National Planning Policy Framework (the Framework) promotes the fullest use of public transport, walking and cycling and aims to focus development in locations which are sustainable. The appeal property has excellent public transport accessibility, with frequent bus services and underground stations within walking distance nearby. As such, alternatives to the private car would be available to future occupiers. The appellant has submitted a signed and executed Unilateral Undertaking (UU) to secure the development as car free.

¹ Appendix 3, Appellant's Statement of Case, Officer Delegated Report, Ref HGY/2013/2545

² Appendix 5, Appellant's Statement of Case, Letter from Ersan & Co Solicitors'.

The Council has confirmed that the UU would overcome their concerns relating to transport and highway impacts. I am satisfied that the proposal would not therefore have an adverse impact on highway safety matters and the UU would accord with Regulations 122 & 123 of the Community and Infrastructure Levy Regulations, 2010 and with paragraph 204 of the Framework.

Conditions

11. Standard conditions in paragraphs O.2 (2) and W (12) (a) of the GPDO apply, and paragraph W (13) of the GPDO allows for the grant of prior approval subject to conditions reasonably related to the subject matter of the prior approval.
12. The Council has suggested a condition which I have considered against advice in the Framework and the Planning Practice Guide. Accordingly, I have imposed a condition to secure cycle parking to encourage the use of sustainable transport modes.

Conclusion

13. For the above reasons I have found the proposed scheme would be permitted development, and would be acceptable in terms of its impact on transport and highways. The Council's concerns in this regard could be dealt with adequately through the completed UU and through the imposition of an appropriate condition. I therefore conclude that the appeal should be allowed and approval granted.

Elizabeth Pleasant

INSPECTOR