



Appeal Decision

Site visit made on 20 May 2019

by Rajeevan Satheesan BSc PGCert MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1st August 2019

Appeal Ref: APP/Q1445/W/19/3221007

14 Sheridan Terrace, Hove, East Sussex BN3 5AE

- 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) (England) Order 2015 (as amended) (the GPDO).
 - The appeal is made by Mr Caveh Sobhanpanah against the decision of Brighton & Hove City Council.
 - The application Ref BH2018/03239, dated 19 October 2018, was refused by notice dated 17 December 2018.
 - The development proposed is conversion of offices into two single storey dwellings.
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Decision

1. The appeal is dismissed as the proposed change of use is not permitted by the GPDO.

Main Issue

2. I consider this to be whether or not the proposal satisfies the requirements of the GPDO with regard to being permitted development for a change of use from an office (Use Class B1(a)) to two residential dwellings (Use Class C3), having particular regard to whether the appeal building can be considered to have or have had a B1(a) use.

Reasons

3. The appeal site relates to a vacant single storey flat roof building, situated on the north west corner of Sheridan Terrace. The application for prior approval for the proposed change of use was refused by the Council as it was considered that there was insufficient information to establish whether the existing use of the building falls within Class B1(a), and therefore the proposed change of use would not be permitted development.
4. The 2015 GPDO states that development is not permitted if, amongst other things, the building was not used for a use falling within Class B1(a) (offices) on 29 May 2013, 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.
5. Both parties have submitted their views regarding the use of the building. Prior to the two recently refused prior approval applications¹ for the change of use to residential, the most recent relevant planning application was for extension to

¹ Council references BH2018/2418 and BH2018/03239

the side of the existing building to form a reception and toilet². Whilst only limited information regarding this application has been submitted as part of this appeal (for instance, only part of the floor plan of this building has been provided), the appellant highlights that the officer's report for that application states that "*the application relates to an existing Class B1 premises at the north western corner of Sheridan Terrace*". However, that is not to say that the use was lawful. I also note that that application was more than 20 years ago and therefore does not provide clarity on the use at the pertinent time, which for the purposes of this prior approval appeal is the 29 May 2013.

6. The only other planning applications prior to that permission was for the change of use from mortuary to storage building, which as approved in August 1978³ and an extension to the mortuary approved on 21 July 1966⁴.
7. Despite the evidence submitted by the appellant, which includes in the planning history for the site, details of business rates and google street view images, it remains the case that the evidence is not conclusive that the use of the building was B1(a) (offices) on 29 May 2013. As mentioned above there is a large gap in the planning history between the mid 90s and the current prior approval applications that were submitted in 2018. I also note that it is open to the appellant whether they seek a determination under S191 of the Act in relation to this matter.
8. Whilst the appellant contends that the building was last used as B1 offices separate to 13 Sheridan Terrace, the evidence provided by the Council does not support this claim. For instance, the recent sales brochure by Graves Son and Pilcher indicates that No 14 was used as offices and laboratory. This brochure also displays the address of the building for sale as "*13/14 Sheridan Terrace*" and states "*Freehold Office / Industrial Buildings*", and therefore the appeal building was being sold as part of an overall site which comprises two buildings with a shared yard. The brochure also states that the site comprises a two storey main building used as offices on first floor and storage on the ground, together with a separate detached single storey building, used as offices and a laboratory.
9. I also note that the former occupiers of the appeal building advised the Council's Officer during a telephone conversation on 12 December 2018 that 14 Sheridan Terrace was used as an annex building to 13 Sheridan Terrace, which was the primary address, and No 14 comprised office space, testing workshop and storage space. This evidence indicates mixed use or *sui generis* use and that the building appears to have been used in connection with No 13 which does not have a B1(a) office use.
10. The Council's evidence therefore raises questions as to whether the appeal building is part of a larger *sui generis* use or mixed use site rather than a separate B1(a) office. Whilst the appellant states that No 14 is clearly separate to No 13, the original planning permission for the appeal building⁴ approved in July 1966 is described as an "extension to mortuary". It therefore appears that the building was originally built as an extension to and in connection with another building. However, I do not have full details of this application before me in order to be conclusive on this matter.

² Council reference: 3/95/0609F

³ Council reference: 3/78/0334

⁴ Council reference: M/12326/66

11. As such there is no substantive evidence before me that demonstrates that the lawful use of 14 Sheridan Terrace was Class B1(a) (offices) on 29 May 2013 or before that date. That being the case, I find the proposed change of use would therefore not meet the requirements of the GPDO for it to be considered as permitted development under the provisions of Class O of Schedule 2 Part 3 in respect of changes from B1(a) use.

Conclusion

12. I have taken account of all other matters raised. However, these do not overcome the proposal's failure to meet the criteria set out in the GPDO such that it could be considered as permitted development for assessment under the prior approval process. For the reasons given above, the appeal does not succeed.

Rajeevan Satheesan

INSPECTOR