



Appeal Decisions

Site visit made on 9 August 2019

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 09 September 2019

Appeal A Ref: APP/N5090/W/19/3230426

Site Adjacent To 80 Golders Manor Drive, London, NW11 9HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Andrea Clerk against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/0598/PNP, dated 31 January 2019, was refused by notice dated 29 March 2019.
 - The development proposed is described as, 'The proposed development intends to put into residential use (C3) the storage unit (B8) located next to no 80 Golders Manor Drive'.
-

Appeal B Ref: APP/N5090/W/19/3230440

Site Adjacent To 80 Golders Manor Drive, London, NW11 9HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mrs Andrea Clerk against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/2021/PNP, dated 4 April 2019, was refused by notice dated 30 May 2019.
 - The development proposed is described as, 'The proposed development intends to put into residential use (C3) the storage unit (B8) located next to no 80 Golders Manor Drive'.
-

Decision

1. **Appeal A** is dismissed, and **Appeal B** is dismissed.

Application for costs

2. An application for costs was made by Andrea Clerk against Council of the London Borough of Barnet. This application is the subject of a separate Decision.

Procedural Matters

3. As set out above there are two appeals which differ only in the evidence provided by the appellant. Although I have considered each proposal on its individual merits, to avoid duplication I have dealt with the two schemes together, except where otherwise indicated.

4. While I note the address as stated in the application form, from the evidence before me, the application relates to the site rather than solely the garage. Therefore, I have used the address from the decision notice in the headers above. I have used the description of development from the application form omitting the parts which are not an act of development.

Main Issue

5. The main issue is whether or not the proposal is permitted development under the provision of Schedule 2, Part 3, Class P of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO 2015).

Reasons

6. Part 3, Class P of the GPDO 2015 states that development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule is permitted development. Under Part P.1 of the GPDO 2015 development is not permitted by Class P if (a) the building was not used solely for a storage or distribution centre use on 19th March 2014 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; (b) the building was not used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins.
7. The appeal site is a single garage with a parking space in front that is accessed from Golders Manor Drive. The building adjoins No 80 Golders Manor Drive (No 80) which is a small residential unit that was previously a garage. With regard to its use, there is no formal planning permission or Lawful Development Certificate for the garage to be used for a Class B8 use.
8. A similar previous prior approval application relating to the site was refused and subsequently dismissed at appeal¹. The Inspector found that there was no substantive or corroborative evidence to confirm that the garage was used solely for a storage or distribution centre use on 19 March 2014; or that the building was used solely for storage or distribution centre use for a period of at least 4 years before the date development under Class P begins. The Inspector for that case was satisfied that the appeal site is a separate planning unit to No 80. Given the evidence before me, I have no reason to disagree.
9. As part of the submission for the planning applications which are the subject of these appeals, the appellant provided additional evidence which sought to demonstrate that the garage has been in use for storage purposes only. This evidence includes a signed Statutory Declaration which states that the garage has been used as a storage facility from September 2013 until the date of the application. The declaration explains that the garage is being rented by the tenant of No 80 and includes an e-mail from the tenant confirming that the garage is being used for storage purposes only. A tenancy agreement for No 80 was also provided that does not mention the garage.
10. However, from the evidence before me, the agreement between the appellant and the tenant of No 80 to rent the garage from 2013 appears to have been made verbally. Moreover, the evidence to demonstrate that the garage has been in solely storage use since 2013 appears largely reliant on an e-mail from the tenant dated

¹ Appeal Ref: APP/N5090/W/17/3188086

January 2019 which states, 'I confirm ,I using the garage just for storage only and for no other purpose.' The e-mail does not confirm the period during which the tenant has been using the garage solely for storage or that they were using the garage for storage purposes on 19 March 2014.

11. I note the evidence which demonstrates that the garage was let for storage purposes between 2011 and 2013 such that there is no dispute between the main parties that the garage was let as a secure lock-up and used for storage between September 2011 and September 2013. Furthermore, the evidence clearly indicates that this use ceased in September 2013 and I note the evidence relating to the use of the garage prior to 2011.
12. I acknowledge the visit from the Council in 19 March 2019 and the reference to case law² regarding separate planning units and domestic storage use as well as the evidence relating to the parked car in front of the garage including the comments of the Inspector for a similar case referred to by the appellant³. Even if the use of the garage is not ancillary to No 80 and the parked car has not been in use, the evidence before me is not sufficiently substantive to confirm that the building was used solely for a storage or distribution centre use on 19 March 2014; or that the building was used solely for a storage or distribution centre use for a period of at least 4 years before the date development under Class P begins.
13. I note the reference to *F W Gabbittas v SSE and Newham LBC* [1985] JPL 630 where it was held that the appellant's own evidence does not need to be corroborated by independent evidence in order to be accepted. However, for the reasons given above I do not consider that the appellant's evidence is sufficiently precise and unequivocal for me to be persuaded that the appeal proposal is permitted development under the provisions of Schedule 2, Part 3, Class P of the GPDO 2015.
14. I therefore conclude that the proposal is not permitted development under the provision of Schedule 2, Part 3, Class P of the GPDO 2015. My decision in this matter is taken on the balance of the evidence before me and does not constitute a formal determination as to the lawful use of the property. The procedure for gaining such a determination would be to apply for a Lawful Development Certificate for the existing use under the provisions of Sections 191 and 192 of the Town and Country Planning Act 1990.

Other Matters

15. I note the concerns regarding the service provided by the Council including the advice provided by the Council regarding a Lawful Development Certificate. I also note the comments relating to the tenant of No 80 looking to move out while continuing to rent the garage for storage purposes. In addition, I acknowledge the other matters raised including that relating to the release of private information. However, I have considered the proposal on its planning merits and these points have not altered my overall decision.

Conclusion

16. For the reasons given above the appeal is dismissed.

R Sabu INSPECTOR

² Westminster City Council v British Waterways Board [1985] AC 676 and Newbury DC v SSE [1981] A.C.578

³ Appeal Ref: APP/M0933/X/12/2184048