



Appeal Decision

Site visit made on 13 August 2019

by N Thomas MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 September 2019

Appeal Ref: APP/G5180/W/19/3229989

Rear of Shaftesbury House, 22-24 Tylney Road, Bromley BR1 2RL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by J H Bloomfield & Son Ltd against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/00893/RESPA, dated 1 March 2019, was refused by notice dated 3 May 2019.
 - The development proposed is office conversion to ground floor flat 2 bedroom.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. I have taken the description from the appeal form, which is more succinct than the description given on the application form.
3. The appellant seeks a change of use from an office (Use Class B1(a)) to residential use (Use Class C3). In accordance with the requirements under Schedule 2, Part 3, Class O of the Town and Country (General Permitted Development) (England) Order 2015 (GPDO), the appellant made an application to the Council for a determination as to whether prior approval was required in relation to certain matters.
4. The Council refused the application on the basis that it was made after the development had already commenced, contrary to the condition in paragraph O.2. The Council also objected to the proposal on the grounds that the building was not previously in use as offices under Class B1(a) on the required date, as required by paragraph O.1 (b). In addition, the Council refused the proposal on the grounds of insufficient information to properly assess the highway impacts of the scheme, and the contamination risks on the site.

Main Issues

5. It therefore follows that the main issues are:
 - Whether the proposal complies with the conditions for permitted development contained in the GPDO, and if it does;
 - Whether the proposal complies with the limitations for permitted development contained in the GPDO;

- Whether the proposal would be harmful to highway safety; and
- Whether the proposal would be acceptable in relation to the contamination risks on the site.

Reasons

Compliance with conditions for permitted development

6. Paragraph O.2 of the GPDO states 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 will be required as to...*'. The Council states that the change of use had already occurred before the application to the Council was made, and refused the application for that reason.
7. The appellant has stated that the appeal site is in temporary use as a work/live unit or home office, by someone who has a main home elsewhere. The Council states that the building is in use for residential purposes, and that Council Tax records indicate that the site is in use. Local residents have also stated that the building is being occupied for residential accommodation. While it is not clear whether the appeal site is wholly or only partially in use as a dwelling, the evidence leads me to conclude that a residential use has commenced. Although the appellant states that the use is temporary, I have seen no evidence that it is not ongoing.
8. As a result, I find that the change of use sought by the appeal has taken place. The Council was therefore correct to refuse the application in accordance with paragraph W(3). Having regard to the GPDO, it is clear that *prior approval* cannot be given for development that has already taken place.
9. For the reasons given above, I therefore conclude that the change of use that has occurred is not permitted development. As a consequence, there is no need to consider whether the proposal complies with the limitations set out by paragraph O.1, or the planning merits of the development in relation to transport and highway impacts and contamination risks.

Conclusion

10. For the reasons given above, and based on the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class O of the GPDO. Consequently, it is development for which an application for planning permission would be required. Therefore, for the reasons given above and taking into account all matters raised, I conclude that the appeal should be dismissed.

N Thomas

INSPECTOR