
Appeal Decision

Site visit made on 23 September 2019

by A Denby BA(Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 November 2019

Appeal Ref: APP/L5240/W/19/3232420

198 London Road, Croydon, CR0 2TE

- 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.
 - The appeal is made by Mr A Lobo against the decision of the Council of the London Borough of Croydon.
 - The application Ref 19/01136/GPDO, dated 2 January 2019, was refused by notice dated 21 June 2019.
 - The development proposed is change of use of building from B1(a) to 2 residential units (C3).
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. Schedule 2, Part 3 Class O of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended (referred hereafter as Class O) permits "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 Class Order, to a use falling within Class C3 (dwellinghouses) of that Schedule".
3. To constitute permitted development, it is necessary for the lawful use of the site to be as specified in Class O, therefore within Use Class B1(a) (offices). If this is the case, paragraph O.1 of Class O then sets out reasons why the development may not be permitted. Those reasons include if the building was not used within Use Class B1(a) (offices): (i) on 29 May 2013; or (ii) 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.
4. There is disagreement between the main parties regarding the status of the use within the building. The lawful use has not been certified under the provisions of section 191 or 192 of the Town and Country Planning Act 1990. In the absence of certification or agreement on this I will reach a view from the facts and evidence provided. My findings, on the evidence before me, are without prejudice to any application under section 191 or 192 which may be made in the future.

Main Issue

5. The main issue is whether the property was lawfully in use as B1(a) (Offices) on 29 May 2013 or if it was in use before that date but was not in use on that date, when it was last in use.

Reasons

6. The site is reached via a shared access located between the buildings fronting on to London Road. The building occupying the site comprises a single open plan space internally, with the roof space being open to the rafters. It is of timber frame construction with corrugated panels to its elevations and roof.
7. The frontage to the access consists of timber panelling with a high-level triangular window, and large timber doors which provide the only access into the building. The window and translucent corrugated roof panels are the only sources of light to the building.
8. The building was not in use at the time of my visit, and it is clear that it has not been in use for some time. There are substantial trees / shrubbery growing within the building, which is also missing a substantial part of its roof.
9. I was able to view the internal arrangement of the building through the existing wooden doors to the frontage. I saw that whilst there are a number of items within the building and outside, it is of a mixed nature and offers little in the way of indicating any previous use.
10. At the time of my visit the adjacent building was undergoing construction work and any functional connections between the previous uses could not be determined. I also did not see any numbering on the appeal site or any of the adjacent buildings which are served off the existing access.
11. It was however evident that the building at the appeal site has a very different character and appearance to the adjacent buildings, and there is clear physical separation between them. I also saw that the access would have been used in connection with other detached outbuildings to the rear of the site, which from signage still in place on those buildings, appears to have been used in connection with a motor repair business.
12. The Council states that the previous use of the building is unknown. The appellant contends that the property was last in use as offices on the 1 January 2004, in association with the adjacent building at Nos 188-190 London Road.
13. The appellant's evidence consists of correspondence from a group of chartered surveyors/estate agents named Stuart Edwards Fullermoons, (SEF); Shah & Burke Solicitors (SBS) and Croydon Council Business Rates Finance Department (CCBR).
14. The letter from SEF dated 29 March 2001 relates to the sale of 188, 190/192, 194 & 198 London Road and the letter refers to '*Self Contained Office Building*'. The SBS letter dated 25th April 2001 refers to the same addresses and also references an impending sale / purchase. It states that the purchase is dependent upon Planning consent for change of use from the current office use to Class A1 retail being secured.
15. The CCBR letter concerns outstanding business rates payable and states that the assessment was divided in to two new assessments with effect from 1

October 1999. These individual assessments are referenced as 188-192 London Road and 188-192 & 198 London Road.

16. These letters do not provide substantive details on the nature of the use and although there is reference to office use it is not possible to determine if this would have been B1(a) or A2 offices. Furthermore, the letters refer to a number of buildings and there are no plans attached to add any clarity or certainty. The evidence submitted in this regard is not therefore clear or unambiguous and does not conclusively demonstrate that the buildings were in B1(a) use.
17. Although I have not been provided with the full details of any previous planning applications for the site, the description of development for the applications identified in the planning history is also not clear and does not specify any individual use class.
18. Based on what I have seen and read, insufficient evidence has been provided to demonstrate that the building was last in use as B1(a) offices. This reflects the Council's conclusions on this matter. It therefore cannot be established that the proposed development complies with the provisions of Class O.
19. Furthermore, it is noted that one of the plans submitted as part of the appeal refers to the existing building being a 'workshop' and this reference is repeated in the Flood Risk Assessment that was submitted with the prior approval application to the Council. Considering the above, and my observations on site this adds further doubt as to what the last use of the building was.

Conclusion

20. On the basis of the evidence before me, I am unable to conclude that, on the balance of probability, the building was in B1(a) (office) use on 29 May 2013, or if not in use on that date when it was last in use. The building does therefore not benefit from the change of use permitted by Schedule 2, Part 3, Class O of the GPDO. Given my conclusion, it is not necessary for me to consider the conditions set out within paragraph O.2 of Class O. I therefore conclude that the appeal should be dismissed.

A Denby

INSPECTOR