



Appeal Decision

Site visit made on 18 November 2019

by Adrian Caines BSc(Hons) MSc TP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 November 2019

Appeal Ref: APP/G5750/W/19/3233196

28 Esk Road, London E13 8LJ

- 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 P of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended.
 - The appeal is made by Mr Mohammed Gulzar against the decision of the Council of the London Borough of Newham.
 - The application Ref 19/01082/PRECOU, dated 10 April 2019, was refused by notice dated 6 June 2019.
 - The development proposed is described as change of use from B8 Storage to Class C3 Residential to create 2 x 1 person units which will be car free with internal space for cycle storage.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the proposal has been taken from the Council's decision notice as this provides a more accurate and concise description of the development.

Main Issue

3. The main issue is whether the proposed development would comply with the conditions, limitations or restrictions applicable to development permitted, having regard to Class P of Schedule 2, Part 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

4. Class P of the GPDO states that development consisting of a change of use of a building from a use falling within Class B8 (storage or distribution centre) to a use falling within Class C3 (dwellinghouses) is permitted development, subject to certain conditions, limitations or restrictions.
5. Under paragraph P.1(c), as amended by Article 9 of the GPD Amendment Order 2018, development is not permitted by Class P if the prior approval date falls on or after 10 June 2019.
6. Whilst the prior approval application was made and the Council issued the decision prior to 10 June 2019, I must determine the prior approval appeal with

regard to the Order as in force at the date of the appeal decision. Therefore, on my reading of the GPDO, as presently framed, it is not now open for me to grant prior approval under Class P.

7. Even if that were not the case and I was required to decide whether the proposal met the requirements for prior approval to be granted, the appellant's supporting information is based on generalised assertions rather than substantive evidence. It does not contain details of what was being stored in the building at the relevant key date of 19 March 2014, nor does it demonstrate that the use of the building was not ancillary to the residential use of No 26 at that time. Moreover, notwithstanding the statements submitted, there is not any reliable evidence that the purported storage use has been carried on for a period of four years. Therefore, despite the present condition of the site and its ownership, based on the evidence before me, I could not have concluded with any certainty that the whole of the appeal building was used solely for a storage or distribution centre use on or before 19 March 2014 and for a period of 4 years, as required by P.1(a) and (b) of the GPDO.
8. Consequently, I conclude that the development is not permitted development under Schedule 2, Part 3, Class P of the GPDO.

Other Matters

9. Whilst it is noted that interested parties have raised a number of concerns, including parking and noise, given my findings as above, it is not necessary for me to consider the related merits of the prior approval application against those matters set out in paragraph P.2.(b) of the GPDO. The same also applies to any other planning merits of the scheme, which do not fall to be considered as part of this particular appeal.

Conclusion

10. For the reasons given above, I conclude that the appeal should be dismissed.

Adrian Caines

INSPECTOR