



Appeal Decision

Site visit made on 30 December 2019

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd February 2020

Appeal Ref: APP/N5090/W/19/3238147

136-144 Golders Green Road, Golders Green, London NW11 8HB

- 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 appeal is made by Cedars House Golders Green Limited against the decision of the Council of the London Borough of Barnet.
 - The application Ref 19/4451/PNO, dated 9 August 2019, was refused by notice dated 30 September 2019.
 - The development proposed is a change of use of first and second floors from office (Use Class B1(a)) to 29no. self-contained flats (Use Class C3).
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The description of the development was not included on the application form, which referred to the planning statement. This statement described the proposal as a 'Change of Use of first and second floors from Office (Use Class B1(a)) to 29no. Self-contained flats (Use Class C3)'. I have used this description in my consideration of the appeal.
3. The evidence indicates that the Council introduced a direction under Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), hereafter referred to as the 'GPDO', effective from 1 October 2019. The effect of this was to remove permitted development rights which are available under Schedule 2, Part 3, Class O of the GPDO relating to 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) to a use falling within Class C3 (dwellinghouses). The application for prior approval notification was determined within the relevant statutory time frame.

Main Issue

4. The main issue is whether the proposal can be considered under the permitted development rights within Schedule 2, Part 3, Class O of the GPDO.

Reasons

5. This part of the GPDO details that 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) to a use falling within Class C3 (dwellinghouses) is permitted development subject to meeting criteria detailed within Paragraph O.1.
6. Paragraph O.2. requires that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to: (a) transport and highways impacts of the development; (b) contamination risks on the site; (c) flooding risks on the site; and (d) impacts of noise from commercial premises on the intended occupiers of the development. The appellant made such an application to the Council, who determined that prior approval was required and refused on 30 September 2019.
 7. The Article 4 Direction covers various parts of the borough. The appeal site is within the part of Golders Green Town Centre which is subject to this direction. The introduction of the direction removed the permitted development right on which this proposal seeks to rely and I have no evidence to indicate that the direction does not remain active. Given that I am required to make my decision based on the situation at the time of determining the appeal rather than at any other stage, the proposal cannot therefore be considered under Schedule 2, Part 3, Class O of the GPDO. It is development for which express planning permission is required and that could only be granted on application made to the local planning authority in the first instance.
 8. Given that this is the case, I will not therefore go on to consider issues over which the parties have disagreement relating to whether the development would be acceptable in terms of its transport and highways impacts, and to whether a planning obligation would be required to restrict future occupiers of the development from obtaining parking permits.

Conclusion

9. For the reasons set out above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR