
Appeal Decision

Site visit made on 16 March 2020

by Nicola Davies BA DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23 March 2020

Appeal Ref: APP/N1920/W/19/3242590
58 High Road, Bushey Heath WD23 1SF

- 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 Mr Laurence Halter against the decision of Hertsmere Borough Council.
 - The application Ref 19/0855/PD56, dated 20 May 2019, was refused by notice dated 18 July 2019.
 - The development proposed is change of use from office (B1) to residential (C3) to create a 2 bed flat.
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Decision

1. The appeal is dismissed

Procedural Matter

2. The provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, under Schedule 2, Part 3, Class O, require the local planning authority to assess the proposed development on the basis of its impact on transport and highways; contamination risk; flooding risk and noise taking into account any representations received. My determination of this appeal has been made on the same basis.
3. I have taken the site address from the planning application form although I note it is expressed differently on other documents. The proposal description I have used in the banner heading above has been taken from the Council's decision notice. It differs from that shown on the planning application form. I consider this to be usefully more concise and have thus employed it here.

Main Issues

4. I consider the main issues in this appeal to be whether the proposed development would be granted planning permission by Schedule 2, Part 3, Class O and the impact of the proposed development on transport and highways, as well as noise from commercial premises on the intended occupiers.

Reasons

Class O.1(b)

5. Paragraph O.1 of Class O sets limitations as to when development is not permitted by Class O. Class O.1(b) indicates that the development would not be permitted if *"the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Uses Classes Order, (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 used."*
6. The planning history provided by the Council does not indicate any planning permission or uses of the property that would fall within a B1(a) use class. The Council considers that the ground floor premises was being used as a financial and professional service at the time of the officer's visit and advises that this would constitute an A2 use class. At my visit I observed signage on the premises frontage advertising financial and property services. This does not lead me to conclude that the property has recently been used for B1(a) purposes.
7. Notwithstanding the above, the test Class O.1(b) sets requires the property to have been in a B1(a) use at a specific point in time. The appellant advises that he bought the property in 1988 (or 1989 according to the title deeds for this property) and converted the ground floor shop to an office. The title deeds history provided by the appellant does not clearly indicate a B1(a) use of the ground floor prior to his purchase. Furthermore, there is no substantive evidence that would clearly indicate an office was established at the property following the appellant's purchase. The information provided does not provide sufficient evidence that would adequately indicate that the ground floor was in B1(a) use on 29 May 2013 or when it was last used prior to that date.

Transport and highways

8. To support the appeal the appellant has advised that there are residential streets and car parks that would provide parking. The Council indicates that three off-street parking spaces would normally be required for a new two-bed unit in line its parking standards. Whilst public car parks and restricted short stay on-street parking would be available close by I do not consider these to be realistic parking options for occupiers on a day-to-day basis. I, therefore, consider it extremely likely that occupiers would seek to park on or off-street. I have not been provided with any substantive evidence that would demonstrate that such parking would be acceptable in surrounding highways or that unauthorised parking would not occur that could negatively impact upon highway or pedestrian safety. Therefore, it has not been demonstrated that the change of use would be acceptable with regard to transport and highways.
9. I acknowledge that some residential properties in the area may not have their own individual parking provision, however that is not a matter for consideration under the prior approval process.

Noise

10. The ground floor is situated between two commercial ground floor uses. The prior approval application has not been supported with any details that might

enable an assessment of potential noise disturbance from the adjoining commercial units to be made. Consequently, it has not been demonstrated that the change of use would be acceptable on the intended occupiers with regard to noise.

Conclusion

11. I conclude that the requirements of Class O.1(b) have not been demonstrated to have been sufficiently met and that it has not been sufficiently demonstrated that the proposal would be acceptable in respect of transport and highways and noise matters. As such, the change of use from office (Use Class B1a) to residential (Use Class C3) of the ground floor does not benefit from Class O permitted development rights.
12. For the reasons give above, the appeal should be dismissed.

Nicola Davies
INSPECTOR