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## Appeal Decision

Site visit made on 27 February 2020

**by A M Nilsson BA (Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 26 March 2020**

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**Appeal Ref: APP/T5720/W/19/3242583**

**5 Park Avenue Mews, Off Park Avenue, Mitcham, Surrey CR4 2EQ**

- 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 P, Paragraph P.2(b) of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
  - The appeal is made by Ms Dawn Fisher against the decision of the Council of the London Borough of Merton.
  - The application Ref 19/P2650, dated 19 July 2019, was refused by notice dated 13 September 2019.
  - The development proposed is change of use from B8 to C3.
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### Decision

1. The appeal is dismissed.

### Background

2. Schedule 2, Part 3, Class P of The Town and Country Planning (General Permitted Development) (England) Order 2015 'the Order', outlines that development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) to a use falling within Class C3 (dwelling houses) constitutes permitted development, subject to certain limitations and conditions.
3. Paragraph P.2 of the Order gives conditions under which the developer must apply to the local planning authority for a determination as to whether prior approval will be required, and one of these, (b)(ii), is the transport and highways impacts of the development.
4. The appeal site comprises a two storey terraced mews building located on a back lane behind a terrace of commercial and residential properties. The proposal is to change the use of the premises from storage (Class B8) to one residential property (Class C3).

### Main Issue

5. The main issue is whether the transport and highways impacts of the proposed development in relation to refuse storage and collection are such as to warrant refusal of prior approval under paragraph P.2(b)(ii).

## Reasons

6. The Council considers that the distance between the proposed refuse storage area for the proposed dwelling and the proposed point of collection for the wheelie bins, which would exceed 20m, is unacceptable. The appellant highlights two drag distances for the wheelie bins of 26m from Caithness Road and 35m from Park Avenue. Regardless of the reference to two distances, I accept that a drag distance of around 26m is possible. On my site visit I walked from the suggested collection point on Caithness Road to the appeal property and found that the distance would not be unreasonable or inconvenient in terms of dragging a wheelie bin. I also observed that such a distance would be within the 30m distance outlined in the Council's document 'Merton's Waste and Recycling Storage requirements' of which I have been provided with an extract. I therefore do not find that the drag distance itself would lead to significant impacts on highway safety.
7. However, in relation to refuse storage, it is proposed that the wheelie bins are stored in a cupboard in the kitchen/living area of the proposed dwelling. Due to the requirement of future residents to drag wheelie bins into the living area of the property, combined with the effect of odours that are generated from such refuse containers, despite the installation of air bricks as proposed, I find it highly unlikely that the proposed refuse storage facility would be used as suggested. I consider that this wholly unsatisfactory arrangement would not be fit for purpose or provide acceptable living conditions or quality of life for the future occupiers of the appeal property.
8. Moreover, in practice this arrangement would be very likely to result in wheelie bins being stored on the highway outside the property rather than in the area proposed inside the dwelling. This would cause an unacceptable obstruction to pedestrians, wheelchair users, cyclists, vehicles and other highway users, in a relatively narrow highway and would result in undue harm to highway safety. This would be so regardless of my findings in relation to the drag distance for the wheelie bins described above.
9. The appellant has referred to a number of prior approvals for similar developments that have been granted in the surrounding area. Whilst I do not have full details of all those examples, many of them appear to have appropriate refuse storage facilities on site. In any event, I do not find any of the examples to be directly comparable to this appeal, and therefore give them limited weight. I also confirm that I have determined the appeal on its own individual planning merits.
10. Paragraph W10(b) of Part 3 of the GPDO outlines that in determining an application regard should be had to the National Planning Policy Framework (the Framework), so far as is relevant to the subject matter of the prior approval, as if the application were a planning application. I have found the proposed refuse storage facilities to be inappropriate and as a result would have an unacceptable impact on highway safety, contrary to paragraph 109 of the Framework.
11. I therefore conclude on the main issue that the transport and highways impacts of the proposed development in relation to refuse storage and collection warrant the refusal of prior approval under paragraph P.2(b)(ii).

## **Conclusion**

12. For the reasons given above, and having had regard to all other matters raised, I conclude that the appeal should be dismissed.

*A M Nilsson*

INSPECTOR