



Appeal Decision

Site visit made on 11 March 2020

by R Sabu BA(Hons) MA BArch PgDip ARB RIBA

an Inspector appointed by the Secretary of State

Decision date: 16th April 2020

Appeal Ref: APP/N5660/W/19/3243653

Units 1, 6, 7, 8 Buildings rear of 1-7 Penistone Road, London SW16 5LU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Class PA, Part 3 of Schedule 2 of The Town And Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr N Gani of Ganco Ltd against the decision of the Council of the London Borough of Lambeth.
 - The application Ref 19/03688/PA, dated 23 September 2019, was refused by notice dated 20 November 2019.
 - The development proposed is described as, 'change of use and conversion of the buildings from use class B1(c) light industrial use to C3 dwellinghouses to create six no. one bedroom flats within the existing buildings'.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would comply with the express terms of permitted development set out in Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the Order), and in particular paragraph PA.1(b).

Reasons

3. Schedule 2, Part 3, Class PA of the Order permits development consisting of a change of use of a building and any land within its curtilage from a use falling within Class B1(c) (light industrial) of the Schedule to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule.
4. The Order states that development is not permitted by Class PA if the building was not used solely for a light industrial use on 19th March 2014 or, 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. Class B1 of the Schedule to the Use Classes Order covers a number of uses including for any industrial process, being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.
5. In 2018 a similar proposal was refused by the Council and dismissed at appeal¹. The application subject of this appeal has sought to address the concerns of that Inspector by submitting additional evidence.

¹ Appeal Ref: APP/N5660/W/18/3203037

6. The appellant confirmed in the Affidavit dated May 2019 that units 1, 6, 7 and 8 were used for car repairs on 19th March 2014. Details of payment of rental fees have also been submitted as evidence that these units were occupied on and before that date. While I note that the Affidavit is unsigned, since the statutory declarations of the occupiers of the units are signed, from the evidence before me and on the balance of probabilities, it is likely that the units were occupied for the purpose of car repairs on 19th March 2014.
7. With regard to whether car repairs fall under Use Class B1(c), while I acknowledge the GeoPlace Data Entry Conventions and Best practice for Addresses dated September 2016, this does not provide a statutory definition of Use Class B1(c). I note the statutory declarations of the occupiers of the units which state that the units were used for car repairs and that the machines used and operation carried out have not caused excessive noise, vibration, smell, fumes, smoke, soot, ash, dust or grit. However, the appellant has not provided sufficient details of the various operations and machinery that are in use as part of the car repair use that was being carried out on 19th March 2014.
8. As discussed by the Inspectors of the cases at Southall² and Hove³, the common activities involved in car repairs include the revving of engines and use of grinders and hammers. Consequently, I have taken a similar approach to those Inspectors in this particular regard. I acknowledge that local concerns appear not to include noise and disturbance, and that the licences signed by the respective occupants say that they shall not permit or suffer any act or any thing on the premises which may be detrimental to the neighbourhood. However, given the proximity and location of nearby residential properties, and that the activities and machinery associated with car repairs would be expected to result in at least some noise, vibration, smell, fumes, smoke, soot, ash, dust or grit, the car repair use is likely to result in a detrimental effect on the area. Therefore, even if the units were occupied on 19th March 2014 by car repair businesses, there is insufficient evidence to demonstrate that the use falls within a Class B1(c) or light industrial use.
9. Consequently, the proposal would not comply with the express terms of permitted development set out in Schedule 2, Part 3, Class PA of the Order, and in particular paragraph PA.1(b).

Other Matters

10. I acknowledge local concerns including highway congestion, parking and drainage. However, these have not altered my overall decision.

Conclusion

11. For the reasons given above the appeal is dismissed.

R Sabu

INSPECTOR

² Appeal Ref: APP/A5270/X/18/3202076

³ Appeal Ref: APP/Q1445/C/12/2169597