



Appeal Decision

Site visit made on 16 June 2020

by Rory MacLeod BA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 June 2020

Appeal Ref: APP/G5180/W/19/3243120

Yeoman House, 57-63 Croydon Road, Penge, London SE20 7TS

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under a Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015.
 - The appeal is made by Tom Smith against the decision of the Council of the London Borough of Bromley.
 - The application Ref DC/19/04010/RESPA, dated 1 October 2019, was refused by notice dated 7 November 2019.
 - The development proposed is conversion of part of a building into 9 x 1 bed apartments and 4 x 2bed apartments.
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Decision

1. The appeal is dismissed.

Procedural Matter

2. Class O of the General Permitted Development Order (GPDO) relates 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) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule"*. For development to be permitted by Class O it must satisfy the requirements set out in O.1. and the conditions at O.2. The Council consider the only requirement not satisfied is O.1.(b) that the building was not used for a use falling within Class B1(a) (offices) on 29th May 2013, the date set in the GPDO for assessment.

Main Issue

3. The main issue is whether the use of the appeal premises comprised Class B1(a) offices on 29th May 2013, and if they did whether the proposal would satisfy the conditions set out in O.2.

Reasons

4. Yeoman House is a 10 storey purpose built office building which currently has other uses. There is a car dealership on the forecourt and ground floor and a hotel occupies several upper floors. The provision of 57 units under Class O was approved in 2019 relating to parts of the second, third, fourth, fifth, sixth, seventh and eighth floors (application reference 19/01837/RESPA). The appeal relates to other parts of the second and third floors which are now vacant, but which were occupied by Oxleas NHS Foundation Trust prior to their vacating the premises in December 2019.

5. Planning permission was granted in 2005 for the change of use of part of the second and third floors from office accommodation to a community mental health centre. A Planning Statement accompanying the application stated that the premises would provide "*a mix of office accommodation and interview facilities*", that there would be a range of health care professionals amongst the envisaged 65 staff on site and that "*the number of clients seen during the course of the average week would be around 200*".
6. A letter from Oxleas NHS Foundation Trust dated 12 September 2019 confirms their occupation of the appeal premises in connection with this permission for the provision of the use then proposed. It confirms that staff saw patients on site in consulting rooms as well as visiting them in their homes. The letter distinguishes between rooms/spaces that were used as offices (edged in green on submitted plans) and other spaces used for clinical/consulting rooms and/or mixed-use space.
7. The proposal is to use those parts of the second and third floors edged in green on the plans for the proposed apartments. However, Unit 9, a 2-bedroom apartment on the third floor, includes floor space not outlined in green or declared in the plans accompanying the 2005 permission. Its lawful use is therefore unclear.
8. The demarcation of the non-office areas not outlined in green differs from the "*client area*" marked on the plan accompanying the 2005 permission. This indicates some flexibility in the use of floor space over time rather than a rigid separation of office and non-office areas.
9. The proposal is accompanied by photographs of areas occupied by the NHS Trust prior to their vacating the site. These show large open areas with low tables and chairs. It is unclear how these areas may have been used, whether exclusively by office staff or as waiting areas for clients.
10. Some of the photographs show a curved desk which separates proposed Unit 2 from an area "*not forming part of this application*". Photograph 6 shows the curved desk marked with the notice "*Older people's & memory services reception*". The desk would appear to have acted as an interface between NHS staff on one side with clients arriving for appointments on the other. It is not plausible to claim the lawful use of the staff side of the reception desk as B1(a) offices and the other as health facility; the interaction between staff and clients in this reception area would have reflected the health centre use as a whole, a use falling within Use Class D1.
11. The appellant claims that the B1 and D1 areas can be identified as physically separate and distinct, and/or occupied for different and unrelated purposes; namely the seeing of patients as opposed to the administration function of a different department of the Trust. At my site visit, I noted several doors labelled "interview room" and one "family therapy room" where clients would have been seen, areas excluded from the proposal. But there is no firm evidence on how other areas, marked in green on the plans, would have been used. It is likely that there would have been storage areas for documents relating to clients using the services, computers where electronic data relating to clients could be accessed and mixed staff rest areas for both health care professionals and staff undertaking related office activities. The evidence indicates that claimed B1(a) office areas would have served and been ancillary

to the health care use and would not therefore have been so readily disaggregated.

12. Reference is also made to the presence of electronically secured doors on corridors to preclude clients from readily gaining access to staff areas; this is not unusual within health care facilities. It does not indicate that the areas either side of the doors had different uses in the planning context.
13. The evidence before me indicates that the two areas were used for related purposes. The use of the proposal area would therefore have fallen within a single planning unit as a health centre, in accordance with the permission granted in 2005, a use falling within Use Class D1.

Conclusion

14. The appeal premises would not have comprised Class B1(a) offices on 29th May 2013. The proposal is not permitted development. It is therefore not necessary to examine if the proposal would satisfy the conditions set out in O.2. of the GPDO. For the reasons given, and having regard to all other matters raised, the appeal is dismissed.

Rory MacLeod

INSPECTOR