
Appeal Decision

Site visit made on 22 June 2020

by Adrian Hunter BA(Hons) BTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13th July 2020

Appeal Ref: APP/W0340/W/20/3246991

The Elmwood Building, South End Road, Bradfield Southend, Berkshire RG6 7EU

- 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.
 - The appeal is made by Profit Estates Ltd (Mr Adam Ward) against the decision of West Berkshire Council.
 - The application Ref 19/03055/PACOU, dated 6 December 2019, was refused by notice dated 6 February 2020.
 - The development proposed is change of use of offices (Class B1a) to form 5 apartments.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Paragraph O.1 of the Town & Country Planning (General Permitted Development) (England) Order 2015 (2015 GPDO), which came into effect on 15 April 2015, sets out the situations whereby development would not be permitted, the one referred to by the Council being O.1.(b) that the building was not used for a use falling within Class B1(a) (Offices) of the Schedule to the Use Classes Order on (i) 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 in use.
3. The Council have confirmed that other requirements within Class O, with regards to transport and highway impacts; contamination risks; and flooding risks, are all met. I have therefore dealt with the appeal on this basis.

Main Issue

4. Therefore, the main issue is whether the property was lawfully in use as B1(a) (Offices) on 29 May 2013.

Reasons

5. The appellant has supplied a statutory declaration made and signed by a Vanessa Matthews on 6 January 2020 before a Solicitor, under the Statutory Declarations Act 1835. The declaration is to the effect that the appeal premises had been used as offices since 27 March 2008.

6. The Council have provided evidence from the Valuation Office Agency, which shows that in 2005 the ground floor was registered as a warehouse, with the first floor in use as an office. Further evidence is submitted which shows that in 2017 the ground floor of the premises was recorded as being split into two separate parts, used as both office and warehouse.
7. Whilst the submitted declaration carries weight, no further evidence or information is before me from the appellant to explain why the Council's records differ from the declaration. Furthermore, the declaration does not identify office to have been the sole use of the whole building, but only confirms that the building has been in use as offices. On this basis, the declaration does not necessarily conflict with the evidence from the Valuation Office but confirms the presence of an office use within the building. The 2017 Valuation Office record shows that on the ground floor, the warehouse floorspace amounted to more than double that used as an office. Therefore, on the balance of probabilities and on the information available, it appears that the appeal premises were not in B1(a) office use on 29 May 2013, or when last in use prior to that date.
8. The proposed change of use would therefore not meet the requirements of the 2015 GPDO for it to be considered as permitted development under the provisions of Class O of Schedule 2 Part 3 of the Order in respect of changes from B1(a) use.

Conclusion

9. For the reasons given above, I therefore conclude that the appeal should be dismissed.

Adrian Hunter

INSPECTOR