
Appeal Decision

Site visit made on 11 August 2020

by T J Burnham BA (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 7th September 2020

Appeal Ref: APP/R5510/W/20/3246587

114 Harmondsworth Road, West Drayton UB7 9JW

- 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 Asif Choudary against the decision of the Council of the London Borough of Hillingdon.
 - The application Ref 52467/APP/2019/3369, dated 12 October 2019, was refused by notice dated 3 February 2020.
 - The development proposed is Part Change of Use from B1(offices) to C3(residential) Convert 1st Floor of two storey office building into a 1 bedroom flat. Retain Use of Ground Floor as offices.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal can be considered under the permitted development rights within Schedule 2, Part 3, Class O of the GPDO.

Reasons

3. This part of the GPDO details that 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) to a use falling within Class C3 (dwellinghouses) is permitted development subject to meeting criteria detailed within Paragraph O.1.
4. Paragraph O.2. requires that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to: (a) transport and highways impacts of the development; (b) contamination risks on the site; (c) flooding risks on the site; and (d) impacts of noise from commercial premises on the intended occupiers of the development.
5. The appellant made such an application to the Council, who determined that prior approval was required and refused. The Council have not raised any concern in relation to the topics covered by (a)-(d) above. Criteria (e) has also been added to O.2 relating to the provision of adequate natural light in all habitable rooms of the dwellinghouse. I do not have the Council's opinion on this matter, but in any event, there are other determinative factors in this appeal.

6. Paragraph O.1 states that development is not permitted by Class O, amongst other things if the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order on 29th May 2013 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.
7. It is claimed that the building was being used as offices on 29th May 2013. However, no evidence has been provided to indicate that the building was solely within B1(a) use on the requisite date.
8. I am informed by the appellant that planning approval was granted at the site in April 2012 for the change of use from Use Class D1 (Non-Residential Institutions) to Use Class C3 (Dwelling Houses) to use as 2 x 1-bed self-contained flats although it appears this proposal was never implemented.
9. A previous appeal decision at the site, from August 2017 (Ref: APP/R5510/W/17/3174730) permitted amongst other things, a change of use from D1 (doctor's surgery) to D1 (non-residential education and training centre) and ancillary B1 (video production).
10. At the time of the site visit, the inspector determining the appeal noted that the development sought had already commenced. The evidence therefore indicates that at that time the building was within a mixed D1/B1(video production) use, against which the provisions of Class O would not apply.
11. In conclusion, the evidence does not indicate that the proposal complies with the narrow limitations and restrictions specified within Class O of Schedule 2, Part 3 of the GPDO.

Other Matters

12. I have sympathy with the appellant who suggests they are struggling to maximise use of the property due to voids in the occupation of the building. However, the proposal cannot be advanced under this mechanism.

Conclusion

13. For the reason set out above, I conclude that the appeal should be dismissed.

T J Burnham

INSPECTOR