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## Appeal Decision

Site visit made on 16 September 2020

**by Rory MacLeod BA MRTPI**

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

**Decision date: 09 October 2020**

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**Appeal Ref: APP/H5960/W/20/3250527**

**Unit C, Molasses House, Clove Hitch Quay, London SW11 3TN**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Meronlake Ltd against the decision of the Council of the London Borough of Wandsworth.
  - The application Ref 2019/4818, dated 5 November 2019, was refused by notice dated 26 March 2020.
  - The development proposed is change of use from restaurant (class use A3) to business (class use B1).
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### Decision

1. The appeal is allowed and planning permission is granted for a change of use from restaurant (class use A3) to business (class use B1) at Unit C, Molasses House, Clove Hitch Quay, London SW11 3TN in accordance with the terms of the application, Ref 2019/4818, dated 5 November 2019, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: P/01, P/02, P/03, P/04 and report: Flood Risk Assessment, Unit C, Molasses House, Plantation Wharf, reference 60427351/001 prepared by AECOM, dated February 2016.

### Procedural Matter

2. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 1 September 2020. The Regulations amend the Use Classes Order and provide for new use classes. Class E (Commercial, Business and Service) subsumes previous use classes specified in the Schedule to the Use Classes Order including Class A3 (restaurants) and Class B1 (Business). A change of use of a building does not involve development for the purposes of the Town and Country Planning Act (1990) if the new use and the former use are both within the same specified class. Accordingly, the change of use, the subject of this appeal, would not involve development as both existing and proposed uses would be within Use Class E. The appeal has not been withdrawn. I shall therefore determine it as submitted in accordance with Regulation 4, having regard to all material considerations, including the legislative change introducing Class E. The appellant can apply for a Certificate of Lawfulness to confirm that the proposed use of the site as offices is indeed lawful.

### **Main Issue**

3. The main issue is whether the change of use would be appropriate having regard to national and local planning policies and other material considerations.

### **Reasons**

4. Unit C is set in a row of ground floor office units fronting the Thames footpath in a predominantly residential area. Several residents have objected to the proposal on the grounds that the unit should be retained as a community centre or café as it was designated as a restaurant as part of the Plantation Wharf development, and in belief there is a need for such facilities. Having regard to these representations, the Council considered the proposal to be contrary to Policy PL1 of the Wandsworth Core Strategy (2016) which states that the local distinctiveness of various neighbourhoods will be promoted. But this general policy is of limited relevance; it relates to areas rather than the protection of specific uses which are covered by other policies.
5. The site lies within a designated Focal Point of Activity within which mixed uses are promoted and where Policy DMO8 of the Wandsworth Development Management Policies Document (2016) applies. This policy seeks *"to create vibrant active places which enhance access to the river"* and states that town centre uses will generally be appropriate. The proposed office use is a town centre use. The glossary to the National Planning Policy Framework includes offices and restaurants within the definition of *"main town centre uses"*. The proposal would not result in the loss of a town centre use.
6. Policy DMO8 protects town centre uses in Focal Points of Activity against changes of use unless there is compelling evidence that there is no demand for such space in accordance with Policy EI7 of the Wandsworth Employment and Industry Document (2018) which sets a requirement for 18 months' marketing. In this instance, such marketing evidence is not required as one town centre use is to be replaced by another; the economic vitality and viability of the area would thereby be preserved. It is also a material consideration that this conclusion was reached by the Council on a previous permission for the proposed change of use in 2016 which expired without implementation.

### **Conclusion**

7. The proposed use would not result in the loss of a town centre use and would not be contrary to Policies PL1 and DMO8. The proposal would be consistent with recent legislative changes. The lack of a need for planning permission is an important material consideration. The proposal would therefore be appropriate having regard to national and local planning policies and other material considerations. For the reasons given, and having regard to all other matters raised, including those by interested parties, the appeal is allowed subject to conditions limiting the lifespan of the permission and to list the plans in the interests of certainty.

*Rory MacLeod*

INSPECTOR