



Appeal Decision

Site visit made on 7 October 2020

by Alison Partington BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9th October 2020

Appeal Ref: APP/R0660/W/20/3255097
35 Appleton Walk, Wilmslow SK9 2HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and 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 Wayne Southern (The Riverside Group) against the decision of Cheshire East Council.
 - The application Ref 20/1775M, dated 29 April 2020, was refused by notice dated 25 June 2020.
 - The development proposed is the conversion of a former Estate Management Office to two flats – Ground Floor and First Floor.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The prior approval application was submitted under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO). This allows the change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling house) of the schedule of the Use Classes Order from a use falling within Class B1(a) (offices). On 1 September 2020 the Town and Country Planning (Use Classes) Order 1987 was amended and as part of this Class B1(a) became part of a new Commercial, Business and Service Use (Class E). However, as the appeal was made before this date, I must determine the appeal on the basis of the GPDO and the use classes that existed at the time the appeal was submitted.
3. The appellant has raised concerns regarding the Council's handling of the case and, in particular, that on the basis of the information they used to determine the application, they should not have validated the application. This is a matter that would need to be taken up with the Council in the first instance and in determining the appeal I have only had regard to the planning merits of the case. In addition, refunding the cost of the planning application is not within the scope of an appeal made under section 78 of the Town and Country Planning Act 1990.

Main Issue

4. The main issue in the appeal is whether or not the proposed development is permitted development and, if it is, whether or not prior approval should be granted.

Reasons

5. Class O of the GPDO permits, subject to certain restrictions, the change of use to a building falling within Class C3 (dwellinghouse) from a use falling within Class B1(a) (offices). However, such a change of use is not permitted if the building was not used for a use falling within Class B1(a) on the 29 May 2013 or, if the building was not in use on that date, when it was last in use. I must therefore consider whether the evidence demonstrates that the appeal property was used as an office, as defined within Use Class B1(a) of the Town and Country Planning (Use Classes) Order 1987 (as amended), having regard to those dates.
6. The proposal relates to a vacant two storey building in a residential estate of similar properties. The Council have indicated that in February 2000 planning permission was granted¹ for the conversion of the building from 2 flats to an A2 Estate Management Office for the Housing Association who manage much of the estate. No subsequent permission has been granted to change the use of the building. Neither is there any Lawful Development Certificate that establishes an alternative lawful use for the building.
7. As the management office for the Housing Association, the Council have indicated that the office would have provided professional services to customers, as tenants would have come to seek advice on services. This has not been disputed by the appellant. This therefore also supports the fact that the building was used as an A2 use rather than B1(a) office.
8. Therefore, from the evidence before me, and in the absence of any lawful development certificate, it would not appear that the lawful use of the building on 29 May 2013 was a B1(a) office as required in paragraph O.1. (b) of the GDPO. As a result, the permitted development rights set out in Schedule 2, Part 3, Class O of the GDPO do not apply.
9. For the reasons given above, I conclude that the proposal is not permitted development, so that the need for prior approval does not arise, and that the appeal should be dismissed.

Alison Partington

INSPECTOR

¹ Application Reference 00/0005P