The Planning Inspectorate

Appeal Decision

Site visit made on 5 October 2020

by Joanna Gilbert MA(Hons) MTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 October 2020

Appeal Ref: APP/N1540/W/20/3248414
The Barrows, Roydon Road, Harlow CM19 5DY.

- 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 Tony Ball on behalf of SES Group Ltd against the decision of Harlow District Council.
- The application Ref HW/COUOR/19/00467, dated 19 November 2019, was refused by notice dated 13 January 2020.
- The development proposed is change of use from B1 office to a Dwellinghouse (Class C3)

Decision

1. The appeal is dismissed.

Main Issue

2. The main issue in this appeal is whether the proposal falls within the provisions for permitted development under Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO).

Reasons

3. Situated on Roydon Road, the site contains two-storey and single-storey linked buildings, with car parking and landscaping. The two-storey component appears to have been built as a large detached red brick house, while the single-storey component is a later addition. I observed during my site visit that the premises were being used as offices and associated storage space at ground floor, with further office space and two bedrooms at first floor.

4. Class O of Part 3 of the GPDO permits 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. The appeal relates to prior approval for the conversion of the B1(a) office use to residential accommodation under the provisions of Class O of the GPDO.

5. Development under Class O of the GPDO is permitted subject to the condition specified in paragraph O.2 of the GPDO that before beginning the development, the developer must apply to the local planning authority for a determination as

to whether prior approval will be required as to various matters such as transport and highway impacts, contamination and flooding risks.

6. The Council made an Article 4 direction (the direction) on 16 October 2019. The direction took effect from 20 November 2019 onwards. The direction applies to the Pinnacles Employment Area, Harlow, within which the site lies.

7. The appellant has confirmed that they were advised of the forthcoming direction on 17 October 2019 and that a consultation period on the direction ran from 21 October to 12 November 2019. The application form is dated 19 November 2019.

8. The Council's direction was introduced to safeguard B1(a) floorspace and to ensure that residential uses are provided in locations with appropriate living conditions and access to services and facilities. At the time of the notice of the direction on 17 October 2019, there had been a loss of some 56,322 square metres of office floorspace across Harlow.

9. The direction has the effect of removing permitted development rights within the Pinnacles Employment Area for changes of use to Class C3 (dwellinghouses) from Class B1(a)(offices) from 20 November 2019 onwards and making it necessary to submit an application for planning permission for a proposed change of use from offices to residential in the Pinnacles Employment Area. As such, I find that prior approval cannot be granted for the appeal as the appeal site no longer benefits from permitted development rights for the relevant change of use.

10. Article 4 of the GPDO allows local planning authorities to make directions restricting permitted development rights. Article 4 (2) of the GPDO specifies that a direction does not affect the carrying out of development permitted under prior approval, where the prior approval was obtained before the direction came into force.

11. While I recognise that the appellant submitted the application prior to the direction coming into force, it is the date of determination of the appeal which is key in this instance. I must take account of such legal restrictions that are in force at the time of my decision. While the wording of the notice for the direction refers to 'without immediate effect', it is clear that the direction came into force on 20 November 2019.

12. Consequently, I conclude that the proposed development does not benefit from the provisions of Schedule 2, Part 3, Class O of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), and that the appeal would constitute development for which applications for planning permission are required. Such an application would be a matter for the local planning authority to consider in the first instance.

Conclusion

13. For the reasons given above, the appeal should be dismissed.

Joanna Gilbert

INSPECTOR