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## Appeal Decision

Site visit made on 23 March 2021

**by C Coyne BA (Hons) DipTP MRTPI**

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

**Decision date: 14<sup>th</sup> June 2021**

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### **Appeal Ref: APP/U4230/W/20/3265330 NSPCC, Hilton Square, Swinton M27 4DB**

- 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 T of the Town and Country Planning (General Permitted Development) (England) Order 2015.
  - The appeal is made by CSIN against the decision of Salford City Council.
  - The application Ref 20/76053/P3KPA, dated 23 September 2020, was refused by notice dated 27 November 2020.
  - The development proposed is described on the application form as 'Hilton Square is currently listed as office use. We are an educational setting/Alternative Provision working with Salford City Council AP and SEN departments. We wish to apply for a change of use for this building to enable us to operate our Alternative Provision from there'.
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### **Decision**

1. The appeal is dismissed.

### **Procedural Matters**

2. As set out in the Council's officer report the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 made some changes to the use classes as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO). These changes came into effect on the 1 September 2020. Class T of schedule 2 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 (now Class E) to use as a state-funded school or a registered nursery (now Class F1).
3. Schedule 2, Part 3, Paragraph W of the GPDO sets out the prior approval process. It states<sup>1</sup> that the local planning authority may refuse an application where, in its opinion, the proposed development does not comply with, or the developer has provided insufficient information to enable the authority to establish whether the proposed development complies with, any conditions, limitations or restrictions specified as being applicable to the development in question. It was on this basis that the Council refused to grant prior approval.
4. It is common ground that the appeal scheme meets the requirements of paragraphs T.1, T.2 (1) (a), T.2 (1) (b) (ii) and T.2 (1) (b) (iii) of the GPDO such that it would constitute development permitted under Class T, subject to the prior approval of certain matters. The Council, in determining the

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<sup>1</sup> Paragraph W. (3)

application, seems to have been satisfied that, if prior approval were to be granted, the proposal would be permitted development.

5. The Council have described the development as 'application to determine if prior approval is required for a proposed change of use from office (use class E) to non-residential education (use class F1)'. I consider that this revision provides a succinct and accurate description of the proposal and I have therefore determined the appeal on this basis.

### **Main Issues**

6. In the context of the above the main issues are:
  - whether the proposal would be permitted development under Schedule 2, Part 3, Class T of the GPDO; and
  - if so, whether prior approval would be required in accordance with the conditions set out in Paragraph PA.2 (1) of the GPDO.

### **Reasons**

#### *Whether permitted development*

7. For a proposal to be deemed permitted development under Class T, prior approval is required in respect to a number of matters, including the transport and highways impacts of the development as per paragraph T.2 (1) (b) (i) of the GPDO.
8. In relation to any potential transport and highways impact that the proposal may have the Highway Authority have not raised an objection provided that a transport statement was submitted to enable an assessment of any of these potential impacts. No such transport statement was submitted as part of the original application.
9. According to the appellant's statement the building is currently not in use. It also states that the hours of the proposed use would be from 08:30 until 15:00 with full access also being required for early evening and weekend tutoring. In addition to this the statement also indicates that there would be approximately 14 members of staff and possibly up to 40 students using the building with there being circa 6 car parking spaces in the courtyard of the building.
10. According to the Council's officer report, there are no parking restrictions along Hilton Square and a footpath runs alongside the front of the building. While on my site visit, I observed a few vehicles passing by the appeal property on their way to and from the more commercial/light industrial premises at the far end of Hilton Square. I also observed that there were no dedicated parking spaces to the front of the appeal property with parking further along the street being reserved for the businesses located there.
11. Therefore while I note that there are bus stops within walking distance of the appeal property and that a proportion of students would potentially be dropped off by their parents in the car park or be travelling there by minibus, given that up to 14 members of staff would also potentially be using the car park at the same time as well as pedestrians possibly using the footpath makes it unlikely that the current parking arrangements could accommodate the proposed increase in vehicular traffic to and from the site.

12. The appellant has also highlighted that the appeal building has more land attached to the large car park further down the road which could potentially be used for additional car parking. However, no substantive evidence has been submitted to show this to be the case.
13. The appellant has also stated that the building next door to the appeal property currently contains a dance school which is open seven days a week with cars pulling up outside to drop off and collect students during operational hours. However, given this fact, it would be reasonable to think that the proposal could potentially intensify the frequency of cars pulling up to drop-off/collect students on this part of Hilton Square particularly if they were doing so at a similar time to the adjacent dance school, making it unlikely that there would be enough space to accommodate them all.
14. Consequently, it is likely that the proposal would cause harm to highway safety and for the above reasons, I conclude that, based on the evidence before me, the proposed use of the building would not satisfy the requirements of Schedule 2, Part 3, Class T of the GPDO, and therefore is not development permitted by it.

*Whether prior approval required*

15. Given my conclusion that the proposal would not be development permitted under Class T of the GPDO, there is no need for me to consider whether or not prior approval would be required, as it would not alter the outcome of the appeal.

**Conclusion**

16. For the reasons given and based upon the evidence before me, I conclude that the proposal is not permitted development under Schedule 2, Part 3, Class T of the GPDO. Consequently, it is development for which an application for planning permission would be required. This would be a matter for the local planning authority to consider in the first instance and cannot be addressed through prior approval provisions set out under paragraph T.2 (1) of the GPDO. The appeal is, therefore, dismissed.

*C Coyne*

INSPECTOR