

Appeal Decision

Site Visit made on 19 July 2021

by Martin Chandler BSc, MA, MRTPI

an Inspector appointed by the Secretary of State

Decision date: 31 August 2021

Appeal Ref: APP/X0360/W/21/3266681

Napoleon House, Riseley Business Park Basingstoke Road , Riseley, RG7 1NW

- 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 Entindale Ltd against the decision of Wokingham Borough Council.
 - The application Ref 201234, dated 21 May 2020, was refused by notice dated 16 July 2020.
 - The development proposed is conversion of building to 17 units.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the proposal would represent permitted development by virtue of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (the GPDO).

Reasons

3. Part 3, Class O of the GPDO enables the change of use of a building and any land within its curtilage from a use within Class B1(a) (offices) to a use falling within Class C3 (dwellinghouses). Paragraph O.2 establishes the conditions which relate to this permitted change and also confirms that the provisions of paragraph W apply to the proposal.
4. Paragraph W establishes the procedure for applications for prior approval under Part 3. Paragraph W (2) (b) and (ba) requires that the application must be accompanied by a plan indicating the site and showing the proposed development, and a statement specifying the net increase in dwellinghouses proposed by the development.
5. The description of development on the original application form is the conversion of the building to 17 units. However, based on the evidence before me, the drawings which originally accompanied the application, and those which the Council based their decision on, showed 22 apartments. Within the appellant's evidence, they seek to substitute the drawings that were originally submitted with the prior approval application, and based on the evidence before me, the revised drawing numbers would be JW812-103 and JW812-104.

The revised drawings show 17 duplex apartments within the building and seek to replace floor plans that previously showed 22 apartments.

6. Due to the inconsistency between the original drawings and the description of development, in my judgement, the application did not meet the requirements of Paragraph W of the GPDO. The revised drawings would be consistent with the description, however, the requirements of Paragraph W are clear, and in not meeting them, this represents a fundamental procedural flaw in the submission.
7. Changes to proposals can be presented through the submission of an appeal and in this regard, the Appellant is right to refer to the *Wheatcroft Principles* as well as the Procedural Guide for planning appeals. When considering whether to accept amendments, it is right to consider whether they would materially alter the nature of the application, and whether interested parties would be prejudiced by accepting the amendments.
8. In this instance, the proposed amendments would reduce the number of apartments previously shown on the drawings in a manner that would be consistent with the description of development. As a consequence, I am satisfied that they would not materially alter the nature of the application, or prejudice interested parties. However, this is not a planning application, and instead it is a proposal for prior approval which must meet a series of conditions for it to be acceptable. For the reasons identified above, in my judgement, the details of the original application failed to comply with the requirements of Paragraph W. Accordingly, it would be inappropriate to accept revised details at this stage because the requirements of the GPDO have not been met, and in not meeting them, prior approval cannot be granted.
9. Consequently, I conclude that the proposal would not represent permitted development by virtue of Schedule 2, Part 3, Class O of the GPDO.

Other Matters

10. Reference has been made to a previous prior approval at the site, which included Napoleon House. However, the original consent required that the development be completed within 3 years, which has clearly not occurred. As a consequence, the previous decision does not alter my findings set out above.
11. I also note reference to the contested condition which may or may not restrict future changes of use. However, due to my findings set out above regarding the procedural flaw in the original submission, I do not need to consider this matter as it would not alter my overall conclusion.

Conclusion

12. For the reasons identified above, the appeal should be dismissed.

Martin Chandler

INSPECTOR