



Appeal Decision

Site visit made on 7 December 2021

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 14 January 2022

Appeal Ref: APP/T5720/W/21/3266808

Central Works, 48 Central Road, Morden SM4 5RT

- 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 C Haggerty against the decision of London Borough of Merton.
 - The application Ref 20/P0534, dated 2 February 2020, was refused by notice dated 27 August 2020.
 - The development proposed is described as "Conversion of carpet sales office to residential use".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force, amending the Town and Country Planning (Use Classes) Order 1987. The effect of this amendment in relation to this appeal was to revoke A1, A2, A3 and B1 use classes and merge them into a new Class E 'Commercial Business and Service.' Regulation 4 of the Amendment Regulations provides that an application submitted prior to 1 September 2020 referring to uses or use classes specified in the Schedule to the Use Classes Order as at 31 August 2020 should be determined by reference to those uses or use classes. I have therefore made my decision on this basis and referred to the superseded use classes within this letter.

Main Issue

3. The main issue is whether the proposal satisfies the requirements of Schedule 2, Part 3, Class O of the GPDO with regard to being permitted development from office (Use Class B1(a)) to residential (Use Class C3).

Reasons

4. Class O of the GPDO states that 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 Use Classes Order to a use falling within Class C3 (dwellinghouses) of that Schedule is permitted development.
5. Development permitted by Class O is subject to the conditions in paragraph O.2(1). One of these conditions requires that, before beginning the

development, the developer must apply to the LPA for a determination as to whether prior approval is required as to certain specified impacts.

6. Paragraph W of the GPDO sets out the procedure for applications for prior approval under Schedule 2, Part 3. Paragraph W.(11)(c) says that development must not begin before the expiry of 56 days following the date on which the application was received by the LPA without the authority notifying the applicant as to whether prior approval is given or refused.
7. The appellant asserts that the 56 days had expired before the notification or refusal was issued and provides a copy of a Planning Portal payment confirmation dated 8 February 2020. The Council states that the application was registered as valid on 17 February 2020. Even taking the latter of these dates, the decision was not issued by the Council until 27 August 2020, in excess of 6 months after submission, and far in excess of the 56-day requirement. The Council therefore failed to provide a determination within the required timescale. However, this is not the end of the matter.
8. Notwithstanding that the Council did not notify the appellant whether or not prior approval was required within the 56-day period, development would still only be able to proceed should it fall within the scope of Class O.
9. The appellant contends that the building was used previously as a carpet delivery, cutting, packing and distribution facility, but that this function ceased and that for approximately 10 years the building has only been used for office purposes.
10. However, it was clear at the time of my site inspection that only part of the building comprises the office use. I observed there to be rolls of carpet stored within a central warehouse area (labelled as vacant on the submitted plans), with carpet underlay also being stored. There was also a forklift located within this warehousing area. I also noted the storage of other flooring such as tiles and linoleum, as well as tools and carpet gripper rods. All of these elements, together with the restricted extent of the office use, clearly indicated to me that the sole use of the building was not as offices and thus in my view the use of the building would not fall within Use Class B1a.
11. As a consequence, despite the delay in the Council determining the application, the proposed development would not fall within the scope of Class O of the GPDO and thus the appeal must fail.

Conclusion

12. For the reasons given above I conclude that the appeal should be dismissed.

Martin Allen

INSPECTOR