
Appeal Decision

Site visit made on 7 December 2021

by Luke Simpson BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2022

Appeal Ref: APP/Q5300/W/21/3269075

169a Hertford Road, Edmonton N9 7EL

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant prior approval required under Article 3(1) and Schedule 2, Part 3, Class PA of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Dyer (Hillcrest Properties) against the decision of the Council of the London Borough of Enfield.
 - The application ref: 20/02517/PAB, dated 06 August 2020, was refused by notice dated 01 October 2020.
 - The development proposed is described on the application form as: 'The development proposed the creation of 4 new residential units, including details of natural light, detailed on the plans and elevational drawings submitted with the application'
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. I have used the description of development above as it is shown on the application form. The Council describe the development, on the decision notice, as a 'Change of use of part of ground floor from workshop (B1(c)) to 4 self-contained residential units (C3)'.
3. Class PA of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits a change of use of a building and any land within its curtilage from a use falling within Class B1(c) 'light industrial' of the Use Classes Order (UCO) to a use falling within Class C3 'dwellinghouses', subject to specific conditions, limitations and restrictions. Class PA does not apply, however, where the prior approval date falls on or after 1 October 2020 (PA.1(c)).
4. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 came into force on 01 September 2020, after the application was submitted to the Council. These regulations mean that Use Class B1 has been subsumed into a new Use Class E. These regulations include transitional arrangements. However, these transitional arrangements lapsed on 31 July 2021 and I must determine the appeal before me in present circumstances. As such, for the purposes of this appeal, Use Class E is the relevant Use Class which a workshop use now falls within.

Main Issue

5. The main issue is whether the proposed development complies with the conditions, limitations and restrictions applicable to Class PA of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), and is therefore permitted development.

Reasons

6. Under Class PA, Paragraph PA.1.(c) sets out that development is not permitted by Class PA if the prior approval date falls on or after 1 October 2020. There are no transitional arrangements in the GPDO which prevent that deadline from applying to appeals in progress, and the deadline was not extended in the recent amendments to the GPDO. Consequently, as the deadline has passed, the proposed development does not comply with all of the conditions, limitations or restrictions applicable to Class PA of the GPDO. It is not therefore permitted development under Class PA.
7. This is further re-enforced by the fact that Use Class B1, to which Class PA refers, has now been replaced by Use Class E 'commercial, business and service'. There are certain permitted development rights in respect of changes of use from Class E (including GPDO, Schedule 2, Part 3, Class MA). Again, however, there are no transitional arrangements which allow for changes from Use Class E to be considered under Class PA, or for such schemes to be transferred to Class MA.¹
8. I appreciate the foregoing reasoning will be disappointing to the appellant, given that circumstances have changed around the scheme. However, in light of that context the proposal before me would not be permitted development with reference to the current version of the GPDO. As such, it is unnecessary for me to consider compliance with the other conditions and limitations in respect of Class PA. To do so would be academic.

Other Matters

9. The appellant has indicated that the Council intentionally delayed the determination of the application until 01 October 2020 in order to ensure that prior approval would be refused. Whilst I accept that the appellant is dissatisfied with the timescales involved in the determination of the application, the Council made the decision within the period prescribed for a decision to be made under GPDO Paragraph W(11)(c), which is a period of 56 Days following the date that the application was submitted.

Conclusion

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

Luke Simpson

INSPECTOR

¹ Noting that, insofar as is relevant to this appeal, transitional and savings provisions in the Town and Country Planning (General Permitted Development etc.) (England) (Amendment) (No. 2) Order 2021 relate only to provisions which had effect immediately before 1 August 2021. As noted earlier in this decision, Class PA is time limited, such that the prior approval date must not be later than 1 October 2020.