
Appeal Decision

Site visit made on 1 February 2022

by Martin Allen BSc (Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 1 March 2022

Appeal Ref: APP/F5540/W/21/3277272

Challenger House, 125 Gunnersbury Lane, Acton W3 8LH

- 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 Harold Cohen against the decision of London Borough of Hounslow.
 - The application Ref 00536/125/PA1, dated 22 March 2021, was refused by notice dated 18 May 2021.
 - The development proposed is Prior notification under Class O of Part 3, Schedule 2, of the GPDO 2015 to change the use from offices (Use Class B1/E) to 2 residential units (Use Class C3).
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Decision

1. The appeal is allowed and prior approval is not required under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) to change the use from offices (Use Class B1/E) to 2 residential units (Use Class C3) at Challenger House, 125 Gunnersbury Lane, LONDON, W3 8LH in accordance with the terms of the application, Ref 00536/125/PA1, dated 22 March 2021, and the plans submitted with it.

Applications for costs

2. An application for costs was made by Mr Harold Cohen against London Borough of Hounslow. This application is the subject of a separate Decision.

Main Issue

3. The main issue is whether or not the proposal would be permitted development under Schedule 2, Part 3, Class O of the GPDO.

Reasons

4. The Council refused the application for prior approval for a single reason, that the proposed units would fall short of the minimum internal floor area requirement for a studio flat and a one-bedroom one-person unit, as set out in the Nationally Described Space Standards, and would therefore be contrary to the terms of paragraph 9(a) of Article 3 of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
5. The Town and Country Planning (General Permitted Development) (Amendment) (England) Regulations 2020 (the Amendment Regulations) amended the Town and Country Planning (General Permitted Development) (England) Order 2015 (the Order). The effect of this amendment in relation to this appeal was by Regulation 3

to insert paragraph 9A to Article 3 – Permitted Development, which states that Schedule 2 of the Order does not grant permission or authorise any development of any new dwelling house where the gross internal floor area is less than 37 metres in size, or where the new dwellinghouse does not accord with the nationally described space standard (the NDSS).

6. Regulation 1 of the Amendment Regulations states that Regulation 3 would come into force on 6 April 2021. However, there are also Transitional and Saving provisions set out in the Amendment Regulations.

7. These set out under Regulation 12 (2) that:

The amendment made by regulation 3 of these Regulations does not have effect in relation to development under—

(a) Class M, N, O, P, PA or Q of Part 3 of Schedule 2; or

(b) Class A, ZA, AA, AB, AC or AD of Part 20 of Schedule 2,

where an application for prior approval is submitted before 6th April 2021.

8. It therefore follows that if an application was made before 6 April 2021, the requirements for the development to comply with the minimum floorspace and nationally described space standards do not apply.
9. The prior approval application that is subject of this appeal is dated 22 March 2021 and the appellant has provided a payment receipt for the application which is also dated 22 March 2021. It is therefore clear that the application was submitted prior to the requirements of the inserted paragraph 9A coming into effect. The Council does not dispute the date on which the application was made and the decision notice it issued confirms receipt on this date. Therefore, the development is not required to adhere to the requirements of the NDSS.
10. I note the comments the Council make in respect of the quantity and quality of the accommodation being provided, as well as the intention of the insertion of the additional requirement to the legislation. Nonetheless, under the legislation, the development is not subject to the additional requirements and as such this is not a matter that I am able to consider. The Council raise no objection in respect of the remaining matters subject to prior approval set out under Class O and I have no reason to find differently.
11. Accordingly, the proposed development would be permitted development under Schedule 2, Part 3, Class O of the GPDO.

Conditions

12. The Council has not suggested any conditions that should be imposed, and I find that none are necessary.

Conclusion

13. For the reasons given above I conclude that the appeal should be allowed.

Martin Allen

INSPECTOR