



Appeal Decision

Site visit made on 8 March 2022

by Katie McDonald MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 23rd March 2022

Appeal Ref: APP/E5900/W/21/3280642

15 Palmers Road, London E2 0SF

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant approval required under Article 3(1) and Schedule 2, Part 3, Class O, Paragraph O.2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Rakesh Sharma (Omkara Limited) against the decision of the London Borough of Tower Hamlets.
 - The application Ref PA/21/00730, dated 31 March 2021, was refused by notice dated 27 May 2021.
 - The development proposed is to convert existing office space into two units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. Notwithstanding this, it is clear from the plans and accompanying details that the development comprises the change of use of the office premises into two flats. The Council dealt with the proposal on this basis and so shall I.

Background and Main Issue

4. Under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for the change of use of a building and any land within its curtilage from a use falling within Class B1(a)(offices), to a use falling within Class C3(dwellinghouses) subject to limitations and conditions.
5. Where an application is made for a determination as to whether prior approval is required for development, paragraph W.(3) provides that the local planning authority may refuse the application where it considers 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 in that Part as being applicable to the development in question.

6. Paragraph O.2(1) requires the developer to apply to the local planning authority for prior approval as to, amongst other things, transport and highways impacts of the development and the provision of adequate natural light in all habitable rooms of the dwellinghouses.
7. Paragraph W(2A) sets out where the application relates to prior approval as to adequate natural light, the local planning authority must refuse prior approval if adequate natural light is not provided in all the habitable rooms of the dwellinghouses. Whilst the first reason for refusal related to the provision of adequate natural light, the Council's statement of case details it is of the view that it can no longer substantiate this reason for refusal and has chosen not to defend it. I have considered the appeal accordingly.
8. Consequently, the main issue in this appeal is whether the transport and highway impacts would be acceptable.

Reasons

9. The site relates to the ground floor of a 4 storey building, located on the west side of Palmers Road. The proposal is to change the use to 2 flats, and the Council have indicated the proposal would need to be "car-free" owing to high parking stress in the area. Access to the flats would be via a shared entrance hall using an existing doorway from Palmers Road.
10. There is currently a considerably large step (consisting of a height of 4 bricks, plus a deep flag stone top) from the pedestrian footway into the building, that I saw on my visit. The plans indicate an internal ramp to cover a height change of around 300mm, projecting for around 2m into the entrance hall. This would equate to a moderately steep incline gradient of around 1:6.7. The Council also detail that the resultant gradient of the access would be too steep to comply with Building Regulations – Part M, that sets a minimum gradient of 1:12 for ramps of up to 5m long.
11. Whilst the appellant disputes this incline and measurements, and states the proposed ramp would comply with Building Regulations, the plans before me simply do not demonstrate this. Furthermore, whilst Building Regulations are separate considerations, their application would be necessary to provide suitable step free access.
12. Moreover, and importantly, as the entrance door would open inwards, the swing of the door would be compromised by the proposed ramp, or indeed any ramp. Given this, the door would not be able to open fully, if at all. This would inhibit access to the flats for all future occupants, especially if manoeuvring a bicycle or a wheelchair.
13. The appellant claims that the door would be replaced with a single, larger raised door with a brush finish beneath. However, without creating serious safety, weatherproof, security or vermin problems, I am unconvinced that a door with a brush finish bottom would be feasible.
14. Therefore, inclusive step free access has not been demonstrated. Furthermore, given the issues associated with the internal ramp and door opening, the access to the flats would be seriously defective, and thus unacceptable.
15. The entrance hall would also contain 2 cycle parking spaces, angled awkwardly adjacent to the door opening and the ramp. Two more cycle spaces are shown

within each individual flat. I acknowledge this is double the requirement. However, the cycle parking in the entrance hall would be compromised by its unwieldy position and proximity to the main door, along with the levels difference that would be presented by the location of the ramp. The bicycles would have to be 'bumped' up over the ramp side to access the rack, especially the one located nearest to the main door.

16. This is further exacerbated by what would be a considerably small communal entrance hall for 2 flats when there are requirements for step free access, wide doors, cycle storage, and space to manoeuvre a wheelchair. Therefore, the appellant's claims that it is larger than a snooker table and currently contains 2 sofas and a coffee table are inconsequential.
17. Cycles parked in this location would be inconvenient and troublesome, and if on the off chance they were incorrectly parked, they could block the main entrance door. This leads me to conclude that cycle parking located here would be unsatisfactory. This is analogous to the findings in the previous appeal decision¹ where the layout proposed was similar.
18. Comparison is made by the appellant to a prior approval application² granted for a studio flat at the same site, with cycle storage proposed in the entrance hall. Whilst I do not know the circumstances that led to its approval, the plans indicate the cycle parking is not located as close, nor at an awkward angle, to the entrance door as this proposal is. Furthermore, it would be a private entrance hall, rather than shared and no ramp is proposed internally. The cycle parking in the approved application is much improved to this proposal and thus the material circumstances are different.
19. The floor space of the proposed flats would be 26 and 34 square metres. Flat 1 would be very small, falling way below the Technical Housing Standards – Nationally Described Space Standard (2015), and Flat 2 is also below the standard. Whilst the application was submitted prior to the amendment to the GPDO³, and therefore the requirement for the space standards to be met was unnecessary at the time, the cycle space parking within each flat would occupy vital and valuable space, even if there is a shortfall of small affordable flats.
20. Furthermore, Flat 1's cycle parking would be next to the probable location for a bed, in an inconvenient position that would be difficult to manoeuvre cycles. It would also be the obvious place for wardrobe storage. This leads me to suspect that the prospect of use would be very slim. The space in Flat 2's would be next to the door, which offers more likelihood of usage, but it would also remove an obvious space for storage. Moreover, the bicycle wheels are highly likely to be dirty from outdoor use, and storing cycles within a living space would be undesirable, even accounting for security concerns. Therefore, I am extremely doubtful that future residents would use these cycle parking spaces.
21. Given the proposal would be a car free development, the availability of suitable, practical and adequate cycle parking is crucial. The appellant has not demonstrated that this can be provided in a way that would promote and facilitate cycling. Notably, the proposal could not provide inclusive step free access without compromising the safety and security of future residents.

¹ Appeal Ref APP/E5900/W/21/3273390

² Application Ref PA/21/01685/NC

³ The Town and Country Planning (General Permitted Development) (England) (Amendment) Regulations 2020 SI 2020 No.1243

22. Accordingly, the transport and highway impacts of the development would be unacceptable, failing to comply with the provisions of O.2.(1)(a) of the GPDO.

Other Matters

23. The appellant suggests an amendment to the internal layout, but this has not been presented to me in plan form, nor considered by the Council. I would have no way to assess this or secure it properly. A condition would not be appropriate because this matter is what the decision turns upon. Therefore, I have not taken this into account.

24. The appellant has referred to other applications whereby cycle storage has been secured by condition. However, I have not been made aware of the individual circumstances that led to them being considered acceptable. In any case, every appeal must be considered on its own merits and these examples do not justify the harm identified.

Conclusion

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

Katie McDonald

INSPECTOR