



Appeal Decision

Site visit made on 21 February 2022

by James Blackwell LLB (Hons)

an Inspector appointed by the Secretary of State

Decision date: 28th March 2022

Appeal Ref: APP/P0119/W/21/3286480

Church House, Church Road, Filton, Bristol BS34 7BD

- 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 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Mr Andy Delve of Church House (CH) Filton Ltd against the decision of South Gloucestershire Council.
 - The application Ref P21/04921/PNOR, dated 13 July 2021, was refused by notice dated 2 September 2021.
 - The development proposed is the change of use from office (Class B1) to 28 no. flats (Class C3).
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Decision

1. The appeal is allowed and approval is granted under the provisions of Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the change of use from Office (Class B1) to 28 no. flats (Class C3) at Church House, Church Road, Filton, Bristol BS34 7BD in accordance with the terms of the application, Ref P21/04921/PNOR, dated 13 July 2021, and the details submitted with it, including drawings: P1082-SNUG-XX-XX-DR-A-0001 (Site Location Plan); P1082-SNUG-XX-XX-DR-A-0300 Rev C (Proposed Site Plan); P1082-SNUG-XX-XX-DR-A-0310 Rev B (Proposed Ground and First Floor Plans); P1082-SNUG-XX-XX-DR-A-0311 (Proposed Second and Third Floor Plans); P1082-SNUG-XX-XX-DR-A-0320 (Proposed Elevations 01); P1082-SNUG-XX-XX-DR-A-0321 (Proposed Elevations 02); and P1082-SNUG-XX-XX-DR-A-0330 Rev A (Proposed Sections).

Preliminary Matters

2. Class O, Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) permits a change of use from Class B1(a) offices to a use falling within Class C3 (dwelling houses), subject to prior approval of certain matters.
3. Notwithstanding any procedural eligibility for prior approval under Class O of the GPDO, the Council must only assess the impact of proposed development with regard to transport and highways, contamination, flood risk, noise and provision of natural light. When considering these matters, regard must be had to the National Planning Policy Framework (2021) insofar as relevant. The Council has confirmed that the proposed scheme is acceptable with regard to each of these matters, and there is no evidence before me which leads me to a different conclusion. I have therefore proceeded on the same basis.

4. The appeal scheme originally proposed a change of use of the whole of Church House from office use to 34 flats. The Council's reason for refusal stems from the last known use of part of the appeal property being A2 (employment services), as opposed to B1 (office) use. This former A2 use related to part of the ground floor only. The appellant has now sought to reduce the scale of the development to remove the ground floor element of the proposal, in an attempt to overcome the Council's concerns.
5. As part of this appeal, the appellant has submitted updated plans showing the revised scheme. In line with the principles established in *Wheatcroft*¹, the appellant has consulted on the revised scheme with key stakeholders. These stakeholders included Environmental Protection, Transport Development Control, Highways, and Filton Town Council. Residents of 82 neighbouring properties were also consulted. Consultation ran for more than a month between December 2021 and January 2022, and no responses were received. As such, I am satisfied that I can determine this appeal with regard to the updated plans without prejudice to any interested parties. Consequently, I have also used the appellant's updated description of development referring to 28 flats instead of 34. The Council was given opportunity to comment on this during the course of the appeal

Main Issue

6. For development to be permitted under Class O of Part 3, Schedule 2 of the GPDO, the relevant building must have been used for office use (Class B1(a)) on 29 May 2013 (or if not in use at this date, its last use prior to this date must have been office use). Whether or not this was the case is the main issue in the appeal.

Reasons

7. Construction of the appeal property was originally granted consent in 1990 under planning permission reference P90/1606, for "*erection of three and four storey building totalling 1,856 square metres [...] to provide one retail unit (class A1) and two office units (class B1) on the ground floor with office above (class B1)*" (Original Permission). In 1991 a further planning permission was granted under reference P91/1821 for "*change of use of ground floor from part office (class B1) and retail (class A1) to employment service office (class A2)*" (A2 Permission).
8. Pursuant to the revised plans, the proposed development now only incorporates parts of the appeal property that are known to have been in B1(office) use pursuant to the Original Permission. Those parts of the building which were subject to the A2 Permission have been removed from the scheme. Given no further permissions have been granted for a change of use since the A2 Permission, the evidence suggests that the lawful use of the parts of the building now subject to the appeal was indeed B1(office) use on 29 May 2013.
9. On this basis, I am satisfied that the proposed development meets the eligibility requirements of Class O of Part 3, Schedule 2 of the GPDO, and can therefore be considered to comply with the description of permitted development.

¹ *Bernard Wheatcroft Ltd v SSE* [JPL, 1982, P37]

Conditions

10. Any approval granted under Article 3(1) and Schedule 2, Part 3, Class O of the GPDO is subject to a condition that the development must be completed within a period of 3 years of the prior approval date. It must also be carried out in accordance with the details approved. Whilst there is scope to impose additional conditions which are reasonably related to the subject matter of the prior approval, I do not consider any to be necessary in this instance.

Conclusion

11. The proposed change of use meets the requirements of Class O, Part 3, Schedule 2 of the GPDO. Having had regard to all matters raised, the appeal should therefore be allowed and prior approval is granted.

James Blackwell

INSPECTOR