



Appeal Decision

Site visit made on 12 April 2022

by David Cross BA(Hons) PgDip(Dist) TechIOA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 05/05/2022

Appeal Ref: APP/Y5420/W/21/3279974

222 Archway Road, Hornsey, London N6 5AX

- 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 GPDO).
 - The appeal is made by PAPA Architects against the decision of the Council of the London Borough of Haringey.
 - The application Ref HGY/2021/1508, dated 26 May 2021, was refused by notice dated 21 July 2021.
 - The development proposed is change of use from offices (B1a) to residential (C3) to provide 1no. flat.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. On 1 September 2020, the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the Regulations) came into force, amending the Town and Country Planning (Use Classes) Order 1987 (the Use Classes Order). Relevant to this appeal, the Use Class B1(a) was replaced by Class E, in Part A of Schedule 2. The Regulations included transitional provisions until 31 July 2021, retaining the effect of permitted development rights based on the classes that were in place on 31 August 2020. The changes do not, therefore, change the basis for the determination of this appeal.
3. Class O of the GPDO permits a change of use from 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). The Council considers that the development complies with the requirements set out in Paragraph O.1 of Class O, and I see no reason to disagree.
4. Paragraph O.2 sets out that development under Class O is permitted subject to an application to the local planning authority for a determination as to whether their prior approval is required in relation to the matters set out in paragraphs O.2(1). This includes matter O.2(1)(e) which relates to the provision of adequate natural light in all habitable rooms, and it is this matter which is referred to in the Council's reason for refusal.

5. Accordingly, the main issue is whether the development would accord with the conditions of Schedule 2, Part 3, Class O of the GPDO, with regard to the provision of adequate natural light in all habitable rooms.

Reasons

6. The provision of adequate natural light is not defined in the GPDO. The appellant has sought to address this through the submission of a Daylight and Sunlight Report¹ (DS Report) which refers to the criteria established by the Building Research Establishment (BRE). In particular, guidance as set out within the BRE's 'Site Layout Planning to Daylight and Sunlight: A Guide to Good Practice' 2011. Based on the evidence before me, the BRE guidance is a suitable basis on which to consider whether the proposal would provide adequate natural light for future residents.
7. Using the BRE guidance, the DS Report refers to various methods of assessing the effects of a development on daylight. This includes the Average Daylight Factor (ADF), where the BRE Guidance refers to a recommended value of 1% for a bedroom, and 2% for the proposed living/kitchen/dining room (LKD). The DS Report sets out that the rooms of the proposal would exceed the recommended ADF value, albeit only marginally for one of the bedrooms at 1.01% and for the LKD at 2.05%.
8. However, in modelling the ADF, the DS Report has adjusted the BRE's default values for interior surface reflectance and reflectance beneath reference plane. Although general reference is made to the internal finish of the proposal for the LKD, a substantive and specific justification for the adjustments has not been set out. Furthermore, given the indicated very marginal exceedance of the BRE's guidance values for ADF, I am not persuaded that the conclusions of the DS Report are realistic given potential changes to the internal finish and the reasonable effects of occupation.
9. These concerns were borne out by observations on my visit. Although some natural light was available to the existing office at the lower ground floor, the room was of a dark and gloomy character even though artificial lights were in use. I am also mindful that my visit took place close to the middle of the day and a degree of illumination was available through a glazed brick mezzanine floor.
10. The appellant has confirmed that the LKD is not reliant on secondary light passing through glass bricks, and that the mezzanine floor has been tested as a solid floor. The DS Report confirms that trees opposite the site have been included in the modelling of daylight. Nevertheless, although the retention of the glass bricks may provide additional daylight to the LKD and further daylight may reach the property when the trees are not in leaf, it has not been demonstrated that these considerations would address my concerns in respect of ADF.
11. The appellant emphasises that the DS Report has been professionally prepared by a chartered building surveyor, and that the Council has not countered this by an alternative professional opinion. However, for the reasons stated previously I consider that the DS Report is not suitably robust in its

¹ July 2021, Brooke Vincent + Partners

consideration of ADF, and the lack of a detailed rebuttal from the Council does not lead me to a different conclusion on this issue.

12. I note the appellant's conclusions in relation to Sunlight as well as Daylight Distribution. But these matters do not negate my concerns in respect of the ADF modelling.
13. Drawing the above together, I am not satisfied that sufficient information has been provided to establish whether the proposal would provide adequate natural light in all habitable rooms. The proposal would therefore not accord with the conditions of Schedule 2, Part 3, Class O of the GPDO.
14. Development plan policies and the National Planning Policy Framework (the Framework) can be considered relevant in prior approval cases, but only insofar as they relate to the development and prior approval matters. The proposal would not comply with the amenity and daylight considerations of policy D6 of the London Plan 2021 and the Framework. Policies SP2 and SP11 of the Haringey Local Plan 2017 and policy DM12 of the Development Management DPD 2017 do not address the amenity of residents of development of the type proposed with regards to natural light, and are therefore not relevant to the prior approval matter.
15. For the reasons given above, I conclude that the appeal should be dismissed.

David Cross

INSPECTOR