
Appeal Decision

Site visit made on 18 July 2022

by S Harley BSc(Hons) M.Phil MRTPI ARICS

an Inspector appointed by the Secretary of State

Decision date: 1 August 2022

Appeal Ref: APP/X0360/W/21/3283156

Napoleon House, Riseley Business Park, Basingstoke Road, Riseley, RG7 1NW

- 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 & Country (General Permitted Development) (England) Order 2015 (as amended)
 - The appeal is made by Mr R Parkinson, Quinata Ltd against the decision of Wokingham Borough Council.
 - The application Ref 210252, dated 22 December 2020, was refused by notice dated 18 March 2021.
 - The development proposed as applied for on the form titled "*Application to determine if prior approval is required for a proposed: Change of Use from Offices (Class B1(a)) to Dwellinghouses (Class C3) under The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) - Schedule 2, Part 3, Class O*" is described as "*conversion of building to 16 units*".
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The submitted floor plans show 15 units. The Council determined the proposal on this basis. I will do the same.
3. Under 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)¹ (offices) to a use falling within Class C3 (dwelling houses) subject to a number of conditions and limitations. The intention is to enable underused/outdated offices to be used to create new homes.
4. Class B1(a) has been replaced by Class E² and the proposal is described on the decision notice and the appeal form as "prior approval submission for proposed conversion of office building (Use Class E(i)) to 15 no. residential units (Use Class C3)". Class MA of the GPDO is concerned with the change of use of premises from Class E to dwellinghouses. Nevertheless, by virtue of Paragraph O.2(2)(b) of the GPDO, an application for prior approval in respect of Class O can still be determined if it was made before 31 July 2021, as is the case here.

¹As defined in The Town and Country Planning (Use Classes) Order 1987 (as amended)

² The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 (the 2020 Regulations)

5. The Council does not dispute that the proposal could benefit from Class O permitted development rights and I see no reason to conclude otherwise. However, it confirmed that prior approval is required and this was not given on the grounds of insufficient information to demonstrate that there would be adequate natural light to habitable rooms or that there would be sufficient parking to ensure no unacceptable traffic or highway impacts.

Main Issues

6. The Council is satisfied that there would be no contamination or flooding risks and no impact of noise from commercial premises on the intended occupiers of the development. I have seen no substantive evidence to conclude otherwise.
7. The main issues therefore are whether the proposed development would comply with the limitations and conditions relating to:
 - (i) the provision of adequate natural light in all habitable rooms in accordance with the provisions of Class O.2 (1) (e) and W (2A) of the GPDO³; and
 - (ii) the transport and highways impacts of the development taking particular account of parking in accordance with the provisions of Class O.2 (1) (a) and W (3) (b) of the GPDO.

Reasons

8. The appeal building is a two storey brick built office block and is part of a larger site described as the Riseley Business Park. Other former office blocks on the Business Park have approval for conversion to residential units: at least some of these are occupied as such.
9. Since this appeal was submitted full permission has been granted for proposed alterations to the existing office building including insertion of 13 roof lights at first floor and roof level, insertion of 2 windows and change of 'garage-style' door to window at ground floor level planning Ref 220655.

Adequate natural light

10. The term 'habitable rooms' is defined in Part 3, paragraph X and Part 20, paragraph C.(1) as meaning '*any rooms used or intended to be used for sleeping or living which are not solely used for cooking purposes, but does not include bath or toilet facilities, service rooms, corridors, laundry rooms, hallways or utility rooms*'.
11. The existing building has numerous windows and rooflights. On the Decision Notice the Council has expressed particular concern in relation to natural light for five of the proposed units. A number of different plans have been submitted as part of the appeal. For the avoidance of doubt I have assessed the proposal in relation to the floorplans on plan Ref jw989-102 Rev A and the elevations plan Ref jw989-104 Rev A including the dimensions shown thereon without taking account of any additional windows that might, or might not, be inserted in the future.

³ The requirement for the provision of natural light in habitable rooms was added by The Town and Country Planning (Permitted Development and Miscellaneous Amendments) (England) (Coronavirus) Regulations 2020 No. 632

12. Flat No 2 is shown on the ground floor. It would have an open plan format for the lounge, dining and kitchen area in an inverted 'L' shape. In my judgement the whole of this space comprises a habitable room. There would be a single window adjoining the proposed bedroom wall, which would project slightly into the lounge area. Due to the depth of the room and the contrived shape I consider it has not been demonstrated that there would be adequate natural light for the depth of the habitable space proposed.
13. Flat No 6, described as "studio" in the Schedule of Accommodation, would be on the ground floor. As shown on the plans it would have a single window and is described by the appellant as having an open plan layout with a screen for privacy to the bedroom. However, the "screen" includes the side of the kitchen and a substantial cupboard, both depicted on the plan in the same style as walls elsewhere, and the side wall of the bathroom such that a relatively narrow opening would remain open to the lounge area. The sole proposed window would look onto the side wall and roof over Flat 5 some 4m away which would over shadow it and reduce the natural light available. In my judgement it has not been demonstrated that there would be adequate natural light for the bedroom area.
14. Flat No 11, described as a duplex in the Schedule of Accommodation, would have ground and first floor accommodation. The ground floor would have an open plan format for the lounge, dining and kitchen area in a room indicated as being more than 10m in depth. In my judgement the sole window, at the side of the lobby wall, would not provide adequate light for the depth of the habitable space. The first floor plan includes a room designated as an office, which amounts to a room for living, which has no window shown on the plans and would have no natural light.
15. Flat 14, described as "studio" in the Schedule of Accommodation, would be on the first floor. The bedroom would have no windows and no natural light and would be tucked some considerable distance from the window beyond a wall to the lounge and a wall to the bathroom. These walls would be arranged so that a relatively narrow opening would remain from the bedroom to what would amount to a corridor, with another relatively narrow opening to the lounge area. In my judgement it has not been demonstrated that there would be adequate natural light for the bedroom area.
16. Flat 15, described as "studio" in the Schedule of Accommodation, would be on the first floor. The bedroom as shown would be enclosed by a corridor wall and the side wall to the kitchen such that a relatively narrow gap would remain open to a corridor leading to another relatively narrow opening into the lounge. In my judgement it has not been demonstrated that there would be adequate natural light for the bedroom area.
17. A prior approval proposal under Class O does not grant permission for operational development and this needs to be addressed separately⁴. Planning permission has been granted for physical alterations to the building planning Ref 220655 described above. Even were I to be able to secure the implementation of these works by condition⁵ I consider the amount of natural

⁴ Dartland Properties Limited and the Secretary of State for Housing, Communities and Local Government and London Borough of Barnet and the Brook Green Appeal Decisions APP/H5390/W/17/3187381, APP/H5390/W/17/3187382, APP/H5390/W/17/3187384, APP/H5390/W/17/3192651, APP/H5390/W/17/3192653 & APP/H5390/W/17/3192652

⁵ Pressland v The Council of the London Borough of Hammersmith and Fulham [2016] EWHC 1763 (Admin)

light available in those rooms/parts of rooms served only by roof lights would be significantly restricted should the tops be obscured by snow, rain or be dirty. Moreover, the natural light to two of the permitted new windows, which could potentially serve Flats 5 and 6, would be over shadowed by nearby walls curtailing the available natural light. Finally no additional light would be created for Flat 2 or the ground floor of Flat 11.

18. Notwithstanding the “light-touch prior approval process” envisaged in the Regulations, for the above reasons, and in the absence of evidence to indicate otherwise, I conclude that the proposal would fail the test of adequate natural light at Class O.2 (1) (e) and, on that basis, prior approval should be refused in accordance with Class W (2A) of the GPDO.
19. The appellant has submitted a plan dated April 2016 showing Napoleon House divided into 17 duplex units. However, for this part of the appeal Decision, the only consideration is whether adequate natural light would be provided. In any event if the April 2016 plan shows the proposal that was approved under planning Ref 161065 it would appear no longer to be extant as the GPDO requires the development must be completed within a period of 3 years of the date of the prior approval. Accordingly I give that previous approval little weight in this appeal.

Transport and highways impacts

20. Napoleon House is well set back within the irregular shaped Riseley Business Park. Access to it is initially alongside the other buildings and then winds around behind houses fronting Basingstoke Road. There is no dedicated footway through the site but the Council raises no objections in terms of the use of the access or the likely number of vehicle movements. From the evidence I see no substantive reason to conclude otherwise.
21. Riseley Business Park includes a large private car park accessed from Basingstoke Road. The proposed parking plan Ref jw989-106 shows 27 parking spaces for the proposed development which exceeds the 19 spaces indicated by the Council as required to meet the Parking Standards. Even if some of the proposed car parking spaces for the appeal proposal are already reserved for occupants of the other buildings, by virtue of earlier decisions, there would still be 16 spaces provided for the proposal (as calculated by the Council) without unduly relying on land described on the plan as “out of scope subject to future planning application”. Cycle storage could also be provided either inside or outside the building.
22. Given the above I consider it to be very unlikely that parking associated with the proposal would overspill the site to the extent it would result in unacceptable risk to highway safety or severe cumulative effects on the efficient operation of the transport network. I therefore conclude that the proposal would accord with the provisions of Class O.2 (1) (a) and W (3) (b) of the GPDO in respect of transport and highways impacts.

Other Matters

23. The appeal site lies inside the 5km buffer of the Thames Basin Heath Special Protection Area (SPA). The Council considers that in proposing 15 residential units there is a requirement for an Appropriate Assessment to establish whether the development would have likely significant effects on the SPA as a

result of recreational disturbance. Given my finding on the first main issue I have not investigated this matter further.

Conclusion

24. For the reasons set out I conclude the appeal should be dismissed.

S Harley

INSPECTOR