



Appeal Decision

Site visit made on 2 August 2022

by Helen Davies MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 18th August 2022

Appeal Ref: APP/Q3630/W/22/3294275

Eastworth House, Eastworth Road, Chertsey KT16 8SH

- 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.
 - The appeal is made by Maizelands Limited and Arringford Limited against the decision of Runnymede Borough Council.
 - The application Ref RU.21/1359, dated 30 July 2021, was refused by notice dated 10 September 2021.
 - The development proposed is change of use from office (Use Class B1(a)) to form 49no residential units comprising 21no studios; 16no 1 bed flats; 12no 2 bed flats (Use Class C3).
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Decision

1. The appeal is allowed and approval granted under the provisions of Schedule 2, Part 3, Class O of Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO) as amended, for change of use from office (Use Class B1(a)) to form 49no residential units comprising 21no studios; 16no 1-bed flats; 12no 2-bed flats (Use Class C3), at Eastworth House, Eastworth Road, Chertsey KT16 8SH in accordance with the terms of the application, Ref RU.21/1359, dated 30 July 2021, pursuant to Schedule 2, Part 3, Class O of the GPDO, and subject to the conditions in the attached schedule.

Preliminary Matters

2. The Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 made changes to the Town and Country Planning (Use Classes) Order 1987. Under these changes, offices which were previously Class B1, became part of Class E (Commercial, Business and Service). Subsequent changes to The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) replaced permitted development rights to convert from offices to residential under Part 3, Class O, with a new Class MA, which allows for a range of commercial uses to convert to residential. Transitional arrangements set out that applications for prior approval under Class O could not be made after 31 July 2021. The application subject to this appeal was made on 30 July 2021, so falls to be considered under Class O.
3. The BRE document 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' (the BRE guide) provides a recommended methodology for measuring daylight and sunlight to rooms and sets out recommended minimum levels. A daylight and sunlight technical note (dated July 2021) submitted with the application, identified that four of the proposed bedrooms would not

achieve the levels of daylight recommended in the BRE guide. It was on this basis that the Council concluded that not all habitable rooms would benefit from adequate natural light and hence the application was refused.

4. The appellant submitted revised drawings¹ with this appeal and a revised daylight and sunlight technical note (dated February 2022). The revised drawings include modest adjustments to the proposed internal layout of four units at second floor. As a result, the technical note indicates that all habitable rooms would achieve the recommended levels of daylight.
5. The 'Procedural Guide: Planning appeals – England' advises that the appeal process should not be used to evolve a scheme and what is considered by the Inspector should essentially be what was considered by the Council, and on which interested people's views were sought. However, in this case, the changes are minor and relate only to the internal layout of 4 units. The changes do not relate to or impact on any of the matters raised by interested parties, so do not prejudice their interests. Therefore, in my judgement, the development is not changed to the extent that to grant it would deprive those who should have been consulted on the changed development of the opportunity of such consultation. The appeal has been determined on the basis of the revised drawings and revised daylight and sunlight technical note.

Main Issue

6. Schedule 2, Part 3, Class O of the GPDO permits development consisting of a 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). This is subject to prior approval for any transport and highways impacts, contamination risks on the site, flooding risks on the site, impacts of noise from commercial premises on the intended occupiers of the development, and the provision of adequate natural light in all habitable rooms.
7. Having regard to the Council's sole reason for the refusal of prior approval, the main issue of the appeal is whether the proposed development would provide adequate natural light in all habitable rooms.

Reasons

8. The site consists of a large L shaped office building with car parking. It is located close to a river and surrounded by a mix of residential development, community facilities and open space.
9. The revised drawings and the revised daylight and sunlight technical note (dated February 2022) set out that all habitable rooms can achieve the recommended daylight levels and that sunlight levels would be acceptable, in accordance with the BRE guide. Determining whether a development can provide adequate natural light to all habitable rooms is a matter of planning judgement. However, in the exercise of that judgement, the BRE guide provides valuable guidance to which I have had regard.
10. I am satisfied that the proposed development would provide adequate natural light in all habitable rooms. This is in line with the conclusion of the Council, who note in their appeal statement of case, that the revised drawings and documents appear to overcome the reason for refusal.

¹ Replacing Proposed Second Floor Plan Ref. 1363-2-402A with Proposed Second Floor Plan Ref. 1363-2-402B

Other Matters

11. A number of concerns have been raised by neighbouring residents. Whilst none of the concerns relate to the main issue, I have considered the concerns raised in so far as they relate to the matters for consideration under Schedule 2, Part 3, Class O of the GPDO. I have been presented with no substantive information which would lead me to conclude that the proposal would have any unacceptable impact on transport and highways, and no contamination issues, or noise from commercial premises have been identified. Any potential flood risk matters can be dealt with by condition. The effect of the development on trees, wildlife, local services, neighbour privacy and access to the river and library are not for consideration under this appeal.

Conditions

12. Paragraph W (13) of the GPDO allows conditions to be imposed that are reasonably related to the subject matter of the prior approval. The Council have suggested conditions, which the appellant has been made aware of and raised no objections to. I have considered the suggested conditions and amended them as necessary in the interests of precision and clarity, to comply with advice in the Planning Practice Guidance. I have removed pre-commencement clauses where they were not essential.
13. Amended drawings and daylight and sunlight technical note were submitted at appeal and form the basis on which the appeal has been considered. It is therefore necessary to list the drawings and documents for the avoidance of doubt and to provide clarity on what has been allowed. To ensure that any transport and highways impacts of the development are acceptable it is necessary and reasonable to apply a condition to secure suitable cycle parking.
14. Parts of the site are within flood zones 1, 2 and 3, and the proposal would introduce a use that is classed as more vulnerable². A flood risk assessment has been submitted, but it is also necessary to ensure that safe access and egress from the site can be maintained and that site drainage does not add to any local flooding risk. Therefore, it is necessary and reasonable to secure a flood risk management plan and implementation and retention of suitable drainage. However, given that the building and car park are pre-existing, I have simplified the suggested drainage condition.
15. The Council also suggested a condition to secure electric vehicle (EV) charging points. The amended Building Regulations, which came into force on 15 June 2022, require the installation of EV charging points, including where dwellings result from a material change of use. Planning decision should not duplicate the function of other regulatory bodies or controls. Therefore, as the development would be subject to the amended Building Regulations, it is not necessary to impose a planning condition to secure EV charging points.

Conclusion

16. For the reasons given above, and taking into account all other material matters raised, I conclude that the appeal should be allowed and prior approval should be granted.

² As set out in Annex 3 of the National Planning Policy Framework.

17. Any planning permission granted under Article 3(1) and Schedule 2, Part 3, Class O of the GPDO is subject to the condition that it must be completed within a period of 3 years of the prior approval date.

Helen Davies

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be carried out in accordance with the following approved drawings and details: 1363-2-100 Rev A (Location Plan), 1363-2-102 Rev B (Proposed Site Plan), 1363-2-400 Rev B (Proposed Ground Floor Plan), 1363-2-401 Rev A (Proposed First Floor Plans), 1363-2-402 Rev B (Proposed Second Floor Plans), 1363-2-403 Rev A (Roof Space), 46679E-01-1 A (Elevations 1&2), 46679E-01-2 A (Elevations 3&4); Accommodation Schedule, Phase 1 Geo-Environmental Desktop Study 20292/WP01, Daylight and Sunlight Technical Note (February 2022), Transport Statement (3650/2005 D002), Flood Risk Assessment (1620012159), Acoustic Assessment (11093.RP01.EIA.0).
- 2) Prior to occupation of the dwellings hereby approved, a Flood Risk Management Plan (FRMP) shall be submitted to and approved in writing by the Local Planning Authority. The FRMP shall include a householder pack which details a safe escape route and the place that people can be evacuated to. The FRMP shall also include details of how the pack will be made available to the first and subsequent occupiers. The approved FRMP shall be implemented thereafter.
- 3) Prior to occupation of the dwellings hereby approved, details of surface water drainage to serve the development shall be submitted to and approved in writing by the Local Planning Authority. Surface water drainage shall be implemented in accordance with the approved details before the development is occupied and retained as such thereafter.
- 4) The development hereby approved shall not be occupied until space has been laid out within the site in accordance with the approved plans for at least 50 cycles to be parked. The cycle parking shall be secure, covered and lit. The cycle parking shall be retained and maintained thereafter.

***** End of Conditions *****