



Appeal Decision

Site visit made on 7 June 2022

by Tamsin Law BSc MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 02 September 2022

Appeal Ref: APP/Z0116/W/22/3292807

Barley House, Oakfield Grove, Clifton, Bristol, BS8 2BN

- 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 appeal is made by Mountcharm Group against the decision of Bristol City Council.
 - The application Ref 21/04122/COU, dated 28 July 2021, was refused by notice dated 8 December 2021.
 - The development proposed is described as "An application to determine if prior approval is required for proposed Change of Use from Offices (Class B1(a)) to Dwellinghouses (Class C3)."
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since there is no description of development shown on the application form, I have taken the one above from the decision notice. This concisely and precisely identifies the development to which the appeal relates and is also shown on the appeal form. I am content therefore that no party would be prejudiced by my use of it.
3. Prior to its amendment in 2020, The Town and Country Planning (Use Classes) Order 1987 (UCO) included offices in Class B1(a). Those office uses are now included within Class E of the amended UCO. However transitional provisions provide that between 1 September 2020 and 31 July 2021 references to use classes for the purposes of making an application in respect of prior approval are to be read as if they were references to the use classes which were specified in the UCO on 31 August 2020. Accordingly, the proposed development is correctly described as the change of use from offices (class B1(a)) to residential use (class C3).

Main Issue

4. There are two main issues. These are whether the proposals would comply with the description of permitted development as set out by Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), with specific regard to a) the use of the building as it is referred to by paragraph F1; and b) whether the building is a listed building or is within the curtilage of a listed building as it is referred to by paragraph F2 (f)..

Reasons

Existing Use

5. Paragraph O.1 of the GPDO explains that development would not be permitted if the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order on 29th May 2013, or, in the case of a building which was in use before that date but was not in use on that date, when it was last in use..
6. The appeal site comprises Barley House, which is a three-storey L-shaped building, occupied by Bristol University. To the south the building adjoins Oakfield House, which is also occupied by Bristol University and currently provides the public entrance into the appeal building. The Council contend that as the building has been used by Bristol University that its use is therefore D1 (Non-residential Institutions).
7. The evidence from the appellant is that the appeal building is and was being used as offices falling under Class B1(a) and has been leased to the University since 2007 with a requirement that it only be used for a B1 use. A copy of the lease has been provided along with other evidence such as marketing details, business rates information and data from the Valuation Office. On my visit to the building, it appeared that most of the building was being used as office space, with some areas being used for meeting rooms.
8. Be this as it may, from the evidence submitted and what I observed during my site visit, the operation and thus use of the building exists as a subsidiary and ancillary element of Bristol University as an educational facility, or non residential institution for the purposes of the UCO. This evidently was a long standing primary use of the building, as part of a wider complex thereof. It is also physically connected to other elements of the university complex at this point, via Oakfield House.
9. Accordingly, the existing building was not used for a use falling within Class B1(a) on 29 May 2013, or when it was last in use. For this reason the proposal would not meet the description of permitted development under Class O.

Listed Building

10. The Council contends that part of the appeal building appears to form part of Reflections House, which is Grade II listed. The listing description does not provide conclusive detail on exactly where the building begins and ends and there is no information that would suggest the appeal building is curtilage listed in association with it.
11. Whilst a section of the red outline does appear to project into Reflections House, during my site visit this part of the building appeared to form part of Barley House in terms of its external and internal fabric, with no internal link between the two buildings. Additionally plans and aerial photography detail that the projection towards Reflections House forms part of the main structure of Barley House.
12. As such, there is no conclusive evidence that part of the appeal building is a listed building. As such, the proposal would, on the basis of what I have seen, appear to comply with paragraph F2 (f).

Conclusion

13. Notwithstanding, it remains that the appeal building was not used for a use falling within Class B1(a) on 29 May 2013 or when it was last in use.

Accordingly, the proposals would not comply with the description of permitted development as set out by Class O. The appeal cannot therefore succeed.

Tamsin Law

INSPECTOR