



Appeal Decision

Site visit made on 6 December 2022

by M Clowes BA (Hons) MCD PG CERT (Arch Con) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 January 2023

Appeal Ref: APP/Q4245/W/22/3304824

Caidan House, 8 Canal Road, Timperley WA14 1TD

- 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 Sital Holdings 1 Ltd against the decision of Trafford Council.
 - The application Ref 104046/PRO/21, dated 25 March 2021, was refused by notice dated 16 February 2022.
 - The development proposed is conversion of ground, 1st and 2nd floors from offices into 11no apartments.
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Decision

1. The appeal is allowed and prior approval granted under the provisions of Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO) for the conversion of ground, 1st and 2nd floors from offices into 11no apartments at Caidan House, 8 Canal Road, Timperley WA14 1TD in accordance with the details submitted pursuant to Schedule 2, Part 3, Class O of the GPDO through application Ref 104046/PRO/21, dated 25 March 2021 and subject to the conditions contained within the Schedule attached to this Decision.

Procedural 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 Schedule 2, 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 25 March 2021, so falls to be considered under Class O.
3. The appellant has submitted revised plans and an amended noise assessment as part of the appeal process. However, it is clear that these documents were before the Council when they made their decision. As such no parties would be prejudiced in determining the appeal on the basis of the revised drawings and noise assessment.

4. I have taken the description of the proposal in the banner heading above from the appeal form and the Council's decision notice, as it more clearly defines but does not fundamentally change the development proposed. I have deleted the reference to the GPDO as it is implicit in the prior approval application. Moreover, and for the same reasons, the cases of the main parties would not be prejudiced by doing so.

Background and Main Issue

5. Notwithstanding any procedural eligibility for prior approval under Class O of the GPDO, the Council must only assess the impact of the 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 (the Framework) 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 proceeded on the same basis.
6. The main issue is therefore whether the proposal would be permitted development under Schedule 2, Part 3, Class O of the GPDO, with particular regard to paragraph O.1(b).

Reasons

7. Caidan House is a 3-4 storey building accessed off Canal Road and adjacent to the Bridgewater Canal. A car park for 27 vehicles is located to the front. The surrounding area is predominantly industrial in character and use.
8. The Council consider that the building including the lower ground floor is one planning unit with shared access and welfare facilities at ground floor level. Whilst the Council agrees that the 3 upper floors contain B1a) offices, it suggests that the lower-ground floor contains non-office uses and as such it is a mixed use that fails to satisfy the requirements of O.1(b).
9. Planning permission was granted in 1985 (application reference H/21526) for the change of use of the building from offices ancillary to general industry, to self-contained office use. This permission appears to have been implemented as there were several office based uses taking place within the 3 upper floors at the time of my visit. I am not aware that there have been any further planning permissions or enforcement notices in respect of the building as a whole or more particularly, the lower ground floor uses. Moreover, the evidence as to what use the lower ground floor is in, is limited. Whilst reference is made to the uses not falling in B1a) use, there is nothing before me to indicate what specific use class the Council consider the lower ground floor units to fall within, and what activities take place that have formed this view.
10. Notwithstanding the above, the conditions and limitations of the GPDO do not reference a planning unit, but rather refers to a 'building' which includes 'any part of a building.' Whether or not the occupants of the lower ground floor units share the occasional use of the ground floor toilets and access for the building as a whole, does not in my view alter the office use of the 3 upper floors from the 1985 permission. Additionally, I note that the lower ground floor is excluded from the proposal. This view is not in conflict with the *Burdle v Secretary of State for the Environment* (1972) 3 All ER 240 judgement, which

furthermore, did not relate to a prior approval determination. The evidence before me therefore suggests that the lawful use of the parts of the building subject to the appeal, was B1a) office use on 29 May 2013.

11. On this basis, I am satisfied that the proposed development meets the eligibility requirements of Class O of the GPDO and can therefore, be considered to comply with the description of permitted development.

Other Matters

12. Concerns have been raised by interested parties and whilst none relate to the main issue, I have considered them in so far as they relate to the matters for consideration under Part 3, Class O of the GPDO. No substantive information has been presented which would lead me to conclude that the proposal would have any unacceptable impact on transport and highways or the living conditions of the future occupiers of the proposed flats, contrary to the findings of the noise assessment.
13. I acknowledge the concerns of the interested parties in relation to the loss of office space in an accessible location and the implications for the existing businesses located within Caidan House. However, concerns relating to such issues cannot be addressed within the provisions of a Class O GPDO prior approval application.
14. The evidence before me indicates that a site notice was displayed advertising the prior approval application in accordance with Article 15 of the GPDO.

Conditions

15. Development permitted under Class O must adhere to the conditions set out at Paragraph O.2.(2), and the provisions at Paragraph W (12) of Part 3 of the GPDO, including that the development is completed within a period of 3 years starting with the prior approval date, and that it is carried out in accordance with the approved details. Conditions suggested by the Council stipulating the time limit for development to be completed and the approved plans, are therefore unnecessary.
16. Paragraph W (13) of the GPDO does however, allow conditions to be imposed that are reasonably related to the subject matter of the prior approval. I have considered the Council's conditions in accordance with the Planning Practice Guidance and paragraph 56 of the Framework, amending them where necessary, in the interests of precision and clarity.
17. A condition is imposed requiring the provision of the proposed car and cycle parking and access arrangements prior to the occupation of the dwellings, to ensure that the transport and highway impacts of the development would be acceptable. In addition, I have imposed a condition requiring the mitigation measures of the noise assessment to the building envelope, to mitigate external noise levels to ensure satisfactory living conditions.

Conclusion

18. For the reasons given above, I conclude that the appeal should be allowed and prior approval should be granted.

M Clowes - INSPECTOR

Schedule of Conditions

1. No dwelling shall be occupied until the car parking, cycle parking, servicing and vehicular access arrangements shown on drawing number Plan BR02 Rev B have been provided. The access and cycle and car parking shall be retained for their intended purpose thereafter.
2. The building envelope and internal walls and floors of Caidan House shall be adapted to be in accordance with the CSG Acoustics Noise Assessment dated 20 May 2021 before the dwellings are occupied, and shall be retained as such thereafter.