



Appeal Decisions

Site visit made on 20 December 2022

by C Shearing BA (Hons) MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 JANUARY 2023

Appeal A Ref: APP/Q3630/W/22/3291876

Lakeside House, 30 The Causeway, Staines-upon-Thames TW18 3BF

- 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 20, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Stonegate Homes (Staines) Ltd against the decision of Runnymede Borough Council.
 - The application Ref RU.21/1523, dated 26 August 2021, was refused by notice dated 19 November 2021.
 - The development proposed is erection of two storeys above existing office building to accommodate 16 self-contained residential units.
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Appeal B Ref: APP/Q3630/W/22/3291877

Lakeside West, 30 The Causeway, Staines-upon-Thames TW18 3BF

- 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 20, Class AA of the Town and Country Planning (General Permitted Development) Order 2015 (as amended).
 - The appeal is made by Stonegate Homes (Staines) Ltd against the decision of Runnymede Borough Council.
 - The application Ref RU.21/1519, dated 26 August 2021, was refused by notice dated 19 November 2021.
 - The development proposed is erection of two storeys above the existing office building to accommodate 16 self-contained residential units.
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Decision

1. Appeal A is dismissed.
2. Appeal B is dismissed.

Procedural Matter

3. There is a discrepancy among the documents relating to the number of residential units proposed as part of Appeal B. I have considered that appeal on the basis of the supporting plans.

Background and Main Issue

4. Under Article 3(1) and Schedule 2, Part 20, Class AA of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (the GPDO), planning permission is granted for new dwellings on detached buildings in commercial or mixed use, subject to limitations and conditions, including the need for an application for prior approval as to the matters listed, which includes flooding risks in relation to the building.

5. Notwithstanding its reasons for refusal, the Council have reported during the course of the appeal that the sites fall within a safety hazard area and, consequently, it disputes whether the proposals would be permitted development. In light of on going discussions regarding that designation, both main parties have been given the opportunity to comment on that matter further and I have taken those responses into account in my determination of the appeal.
6. The main issue in respect of both appeals is whether the proposed developments are permitted under Schedule 2, Part 20, Class AA of the GPDO.

Reasons

7. Paragraph AA.1 of Schedule 2, Part 20, Class AA of the GPDO gives criteria where such development is not permitted. This includes at clause AA.1 (o)(v), if the land or site on which the building is located, is or forms part of a safety hazard area. The GPDO provides an associated definition of a safety hazard area.
8. Based on the evidence, there are two Hazardous Substances Consents (HSCs) which affect the appeal sites, relating to the nearby former gas works and water treatment works. With regard to the former gas works site, based on the evidence, the storing of natural gas was decommissioned and purged by 2015 and the Council are in the advanced stages of making a Revocation Order to the Secretary of State, which has not yet been confirmed. In terms of the water treatment works, while the appellant understands that storing of chlorine no longer takes place on the site, there is not conclusive evidence on this matter and the Council confirm there has been no formal agreement to take forward a Revocation Order in relation to the HSC.
9. The appellant reports that the Health and Safety Executive have removed any objection to the proposals, on the basis that a condition be imposed that the development shall not be occupied until the HSCs have been revoked. Despite this, those comments do not amount to confirmation that the sites are not within a safety hazard area and this does not override the need to comply with the relevant criteria in order to be permitted development.
10. For the reasons above, there is insufficient evidence to adjudge that the land on which the buildings are located does not form part of a safety hazard area, as defined by the GPDO. As such, it cannot be established that the proposed developments would comply with the limitations and restrictions that are applicable to this part of the GPDO and it cannot be concluded that the proposals would be permitted development.
11. The procedure for applications for prior approvals under Part 20 states that prior approval can be granted subject to conditions reasonably related to the subject matter of the prior approval. Consequently,
12. While the procedure for applications for prior approvals includes the ability to grant approval subject to conditions reasonably related to the subject matter of the prior approval, this comes into play only as part of the conditions to Class AA and, in order for it to be applicable, the development would need to come fully under the description of permitted development in the scope of Part 20 Class AA, which is not the case here. In addition, the matter relating to the safety hazard area is not a matter for which prior approval is required. For

these reasons the issue cannot be addressed through the imposition of planning conditions.

13. In turn, there is no purpose in going on to consider whether to grant prior approval for the matters listed when the proposals fall outside the permitted development right.

Conclusion

14. For the reasons set out, both Appeal A and Appeal B are dismissed.

C Shearing

INSPECTOR