



Appeal Decision

Site visit made on 17 January 2023

by A J Sutton BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 21 February 2023

Appeal Ref: APP/R3650/W/22/3292739

Abbey Business Park, Monks Walk, Farnham GU9 8HT

- 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 and Country Planning (General Permitted Development) (England) Order 2015 (as amended).
 - The appeal is made by Lady C Caffyn-Parsons against the decision of Waverley Borough Council.
 - The application Ref PRA/2021/01769, dated 20 July 2021, was refused by notice dated 10 September 2021.
 - The development proposed is conversion of office building to 13 residential (C3) units.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. This appeal was submitted alongside another appeal in respect for a similar proposal at this site, and these were identified as linked cases. However, the Council's questionnaire was not submitted in respect for that other appeal. To avoid delaying this appeal decision, following consultation with the main parties, it was agreed that the appeals would be dealt with separately. For avoidance of doubt this decision relates to the evidence submitted in relation to this proposal.
3. Under Article 3(1) and Schedule 2, Part 3, Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (GPDO), planning permission is granted for 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) of the Schedule to the Use Classes Order, to a use falling within Class C3 (dwellinghouses) of that Schedule.
4. Before prior approval under Class O can be evaluated, it is necessary to determine whether or not the proposal falls to be considered as permitted development. The Council accept that the building qualifies as permitted development under this class, and I find nothing that contradicts this conclusion.
5. In respect of prior approval matters, the provisions of Class O of the GPDO require the local planning authority to assess the proposed development on the basis of transport and highways impacts of the proposed development; contamination risks on the site; flood risks on the site; and the provision of adequate natural light in all habitable rooms of the dwellinghouses.

6. The Council has referenced development plan policies in its decision notice. The principle of development is established by the GPDO and the provisions of Schedule 2, Part 3, Class O of the GPDO do not expressly or otherwise require determination of the appeal on the basis of s38(6) of the Planning and Compulsory Purchase Act 2004. However, I have had regard to the policies of the development plan and the National Planning Policy Framework (the Framework) only in so far as they are a material consideration relevant to the matters of prior approval specified for Class O.

Main Issue

7. The main issue is whether the proposal provides adequate natural light in all habitable rooms of the dwellinghouses.

Reasons

8. The appeal site is occupied by a long building, divided into several commercial units. The southern section of the building is two storeys, with windows at both floors, to the front and rear. The larger remaining section of the building is single storey. This part of the building has ground floor windows to the front and rear, supplemented by roof lights, and ground floor and first floor openings in the northern gable of the building. The front elevation also contains two full height doorways with roller shutters of solid appearance and no apertures when closed.
9. The proposed change of use of the commercial building would result in four dwellings in the two-storey section of the property and nine dwellings in the remaining section of the building. All the proposed dwellings would have bedrooms at the upper floor level, and this would include those in the existing single storey part of the building.
10. The GDPO¹ requires that prior approval must be refused in relevant applications if adequate natural light is not provided in all the habitable rooms of the dwellinghouse. Part 3, Paragraph X of the GPDO states that habitable room means '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. As outlined above, the only windows at the upper level on the elevations of this existing single storey building are at the gable end. Moreover, the existing rooflights on this part of the building are small and set close to the apex of the roof. Therefore, the light from this source is principally limited to the central internal area of the building.
12. The proposed centrally located stairwells of the dwellings, in this part of the building, would benefit from natural light through these existing rooflights. However, this source of light would be restricted from reaching the bedrooms of these proposed dwellings, as these rooms would be divided from the stairs by internal walls. Taking account of the size and position of the existing rooflights, bedrooms in these proposed dwellings, with the exception of those in the north end unit, would not have an adequate source of natural light. Moreover, there is a section of this part of the roof which does not have rooflights such that two of the proposed residential units would not have a source of natural light at the new upper floor level.

¹ Paragraph W.(2A) of Part 3 of the GPDO

13. Also, the front elevation of two proposed residential units (dwelling Type B) would be formed by the existing roller shutters. The plans show that a living room would be behind these shutters. With these existing solid features, the proposed ground floor living rooms of these two dwellings would not benefit from a source of natural light.
14. Planning permission² has recently been approved for the installation of rooflights at the appeal property. The approved plans show that the existing roof lights on the single storey section of the building will be replaced by slightly larger roof lights, and these will be located lower down the roof plane such that they would provide an overhead source of natural light to the proposed bedrooms. The approved plans also permit additional rooflights that will cover the space on the roof which does not currently benefit from this feature.
15. While this approved development outlined above may provide light to the proposed bedrooms in this part of the building, it would not resolve the lack of natural light for the ground floor living rooms of two proposed residential units affected by the shutters. The appellant states that the roller shutters would be replaced with fenestration to match the adjoining units, and this would be carried out either as permitted development or via a further companion application. However, the appellant has provided limited information as to how the external change to the shutters could be achieved by permitted development rights. Moreover, as highlighted in the appellant's statement, Class O of the GPDO does not include a provision for building operations reasonably necessary to convert the building.
16. The Council may well not resist a proposed elevation change to the existing appeal building. Be this as it may, as the above approved development does not include changes to the shutters, even if the appellant accepted a condition requiring the implementation of that planning permission prior to the change of use, this would not address the identified conflict with Condition O.2.(1)(e) of the GPDO. Furthermore, for the reasons outlined, I see nothing before me in this appeal that would give certainty that these external alterations could be lawfully carried out to address this conflict.
17. I have had regard to the main parties' comments about the area marked as 'study' for the proposed dwelling Type A, and the advice set out the Council's supplementary planning document on this matter. However, this is not shown as an enclosed room, and it appears that the proposed study would form part of a hallway. Therefore, while noting the absence of a source of natural light to this space this would not be contrary to this Condition of Class O.
18. My attention has been drawn to two Council decisions. The Farnham development had already received prior approval for a change of use, and adequate natural light was not raised as a concern by the Council in respect to the development in Bramley. The proposal before me is not directly comparable to those developments in these regards and this matter has not altered my finding in this case for this reason.
19. In light of the above, I find that the proposal would not provide adequate natural light in all habitable rooms of the dwellinghouses, and for this reason prior approval is not granted in this case. In respect to this prior approval

² Ref: Decision Notice WA/2021/02463

matter, the proposal would be inconsistent with the Framework which seeks a high standard of amenity for existing and future users.

20. I have not been provided with a copy of Policy TD1 of the Local Plan. However, for the reasons stated above development plan policies are not determinative in this case.

Other Matters

21. The appeal site falls within the "Zone of Influence" for the Thames Basin Heaths Special Protection Area. However, as I am dismissing the proposal on different grounds there is no need to consider this matter further in this appeal.
22. The change of use would contribute to the supply and mix of homes in the area. However, this issue is outside the scope of matters that can be considered in this case.
23. I note the circumstances of the proposal as set out by the appellant and the matters surrounding financial risk. I have also had regard to the appellant's comments about the Council's approach and advice in respect to this proposal, a similar proposal at the appeal site³ and the companion development. However, these are matters between the appellant and the Council and outside the scope of this appeal. This aside, I have had regard to the approved companion development in this decision, as outlined above, and it has not altered my findings in this case for the reasons stated.

Conclusion

24. For the reasons given above, the proposal would not satisfy Condition O.2.(1)(e) of Class O in relation to adequate natural light, and prior approval is not therefore given. I conclude that the appeal is dismissed.

A J Sutton

INSPECTOR

³ Ref: PRA/2021/01768